

**AN EVALUATION OF ALIGNMENT OF STRATEGIC PROCUREMENT FUNCTION  
IN CITY COUNCILS AND ITS IMPACT ON COMPLIANCE LEVELS WITH PUBLIC  
PROCUREMENT PROCEDURES IN MALAWI: CASES OF BLANTYRE, LILONGWE  
AND MZUZU CITY COUNCILS**

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## ABSTRACT

*The procurement function has become a governance agenda in the public sector in Malawi since the enactment of the Public Procurement Act in 2003. However, some studies done elsewhere in this area have revealed that there is little knowledge about the role of the procurement function in the public sectors. Therefore, the main aim of this study was to examine various factors that influence meaningful involvement of the procurement function on procurement processes and the enhancement of compliance levels within the public sectors. Unlike, the procurement function, which is the department comprising of professionals, procurement processes involve initiating the needs by user departments, solicitation of bids and administration of contracts to suppliers. This thesis focused on the importance of public procurement; the way it is perceived; its roles in the Local Government; the challenges it encounters, and how it is aligned with other functions within the Local Government. The empirical data has been collected using case study research strategy. In- depth case studies were conducted at three major city councils of Blantyre, Lilongwe and Mzuzu. The empirical data that were collected was further analysed using grounded theory approach. The findings of this study have revealed that there is lack of compliance with procurement procedures in the city councils due to poor alignment of the procurement function, lack of professionalism in public procurements, lack of corrective measures for those that breach the procurement laws, negative organization culture, lack of awareness, perceived inefficiency, fear towards losing control, bureaucracy and lack of information technologies. The study also found out that, since the procurement function operates at clerical levels, senior city council authorities do not fully comply with its regulations. Based on these findings, this research has developed a framework for public procurement practitioners, policy-makers and regulators. The study recommends further research in the Central Government to widen knowledge base regarding this phenomenon. Furthermore, research should also be done on supplier relations management to understand its impact on procurement compliance levels.*

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**LIST OF ABBREVIATIONS**

GDP	=	Growth Domestic Production
SPU	=	Specialised Procurement Unit
IPC	=	Internal Procurement Committee
ODPP	=	Office of the Director of Public Procurement
NGO	=	Non-Governmental Organisation
DDF	=	District Development Fund
OPC	=	Office of the President and Cabinet
LDF	=	Local Development Fund
CDF	=	Constituency Development Fund
VFM	=	Value for Money
PE	=	Procuring Entity
PU	=	Procurement Unit
HASAW	=	Health and Safety at Work
EU	=	European Union
PPDA	=	Public Procurement and Disposal Authority
PPA	=	Public Procurement Act
SDB	=	Standard Bidding Document
MASAF	=	Malawi Social Action Fund
VPA	=	Volume Procurement Agreement
ICT	=	Information and Communication Technologies
PTN	=	Post Tender Negotiation
CIPS	=	Chartered Institute of Procurement and Supply
MoEST	=	Ministry of Education Science & Technology

## CHAPTER 1

### *Introduction*

#### **1.1 Background**

Public procurement has become an increasingly important aspect in the business arena on the global market (Emmett & Wright, 2011). This is particularly true when we look at huge numbers of donors, governments and professional bodies that are increasingly getting attracted to this concept (Khi & Thai, 2001). Today, many developing countries are transforming their legal, organisational and institutional frameworks for public procurement (Agaba, & Shipman, 2014). According to Agaba and Shipman (2014), about 20% to 40% of developing countries' gross domestic production (GDP) is lost through poor procurement practices every year. In Malawi alone, over 70% of the national budget is spent on procurement activities. Accordingly, any minimal improvements to the procurement system can lead to significant savings (Agaba, & Shipman, 2014).

Recently, many countries worldwide have received a lot of attention as hubs for providing essential public services such as education, health and defence among others. To provide these, governments have had to procure goods and services from the formal markets through legalised public procurement. Public procurement is defined as the acquisition of goods, works and services from third parties by procurement authorities (OGC's, 2007). Public procurement is also defined as the acquisition of goods and services using resources from local authority, state trustees, state foundations, foreign loans and grants and any state revenue (Ogot, et.al, 2009). Concisely, public procurement is the act of obtaining goods and services using public resources and a legally constituted procurement system. The procured items range from simple to complex ones. These would be things like erasers and pens to much more complex ones such as road construction and security arms among others. When government is central to the provision of services, basic measures for successful public procurement processes need to be anchored in quality service offerings, procurement reforms and solid legislations. Conversely, public procurement in Malawi has not been effective because of obsolete laws governing procurement processes (Kirsten, et.al, 2008). Moreover, many public procurement institutions lack technical expertise and human resources capacities.

Given that public procurement has both economic and political values, governments need to make this process economically viable and transparent for it to achieve its goals. This however will depend on a number of issues. These issues then call for governments, procurement authorities, academic institutions, business professionals, communities and suppliers to fully understand the essential processes. Malawi must therefore establish a vibrant procurement function that will help create an enabling social, economic and political environment. However, the process of creating effective procurement function is still confronted by many limitations which often lead to noncompliance with public procurement requirements (Malawi Procurement Reports, 2004: CPAR number 29295 and Malawi-World Bank, 2018).

The Government, therefore, needs to devise mechanisms that will nurture management of procurement processes. Government should embrace the basic principles of providing enough space for the growth and development of the procurement. This also requires all procurement transactions to be executed in a transparent manner and in line with Malawi public procurement laws. The issue, however, is when government is at the centre of service provision. In such cases, procurement processes maybe adhered to or violated. This is the time procurement processes become problematic resulting into the provision of poor goods and services. To reduce these problems, governments must adhere to all-round public procurement procedures in order to realise quality goods and services at the right value.

## **1.2 Public Procurement Reforms in Malawi**

The transition of public procurement in Malawi started around 1990s (Agaba & Shipman, 2014). In 1996, Malawi initiated the public procurement reform with the support of the World Bank. The International Procurement Consulting of America was then tasked to assess the procurement systems in Malawi. The diagnostic studies done by the American firm (ODPP, 2004) revealed that Malawi's procurement system lacked:

- Legal framework to back procurement activities
- A unified standard bid documents
- Proper specifications leading to wrong acquisition of goods and services
- Unified procurement procedures to guide procurement processes
- Qualified personnel to handle complex procurement issues
- Transparency and accountability
- Corruption and fraud safeguards
- Records and posterity files for audit purposes.

In spite of the country's good legal framework for procurement, there have not been much institutional and oversight reforms since 2003. The country seems to be struggling with public procurement ills (World Bank Report, 2018).

Procurements in Malawi Local and Central Governments have revolved around central decision-making system where Central Tender Boards (CTBs) were the nerve-centre for all procurement activities. Soon after independence in 1964, Malawi adopted the Treasury Circulars (TCs) as a means of authorising its procurements. This was followed by the introduction of the Supplies Manual (SM). By then, procurement was under the Ministry of Finance (MoF). The MoF was thus in charge of all finances and expenditures. This was a centralised procurement system. Not only was the CTB responsible for all procurements but it was also the sole decision maker of what, how, when and where to buy without engaging the users. This led to wrong items and quantities being bought.

According to Mangulama (2008), centralised procurement system presented many challenges to public expenditure. This failed to provide any link between the procurement departments and the users. Then,, the requisitioning departments usually received their goods and services from the

Office of the President and Cabinet (OPC) irrespective of whether they were useful or not. Secondly, the system did not even consider the availability of funds in the budget. This then led to delayed payments for suppliers hence frustrating their supply behaviour.

The coming in of multiparty politics in 1993 brought some hope to Malawi's procurement system. This also brought decentralisation of public services, which were aimed at empowering the locals. Furthermore, decentralisation was aimed at enhancing transparency, accountability and efficiency in the delivery of services and goods to masses. Decentralisation was, since then, viewed as a key element for transparency and accountability in developing countries.

In view of this, Malawi initiated decentralisation policies in 1998, which focused on the transfer of power, resources, and technical capabilities from the top to the bottom masses. Decentralisation was also important as it nurtured decision-making skills among the local masses. This though had many implications on the operations of government machinery as a whole. For example, since decentralisation emphasised power to the people, procurement system at Local Government level needed to be properly aligned with decentralisation rules and regulations. When we talk of Local Government in Malawi, we talk of a system that is made of city, municipal, town, and district councils. Malawi has 35 city, municipal, town and district councils (Chinsinga, 2008; Jagero, et.al, 2014; Maoni, 2013 & Movesi, 2014).

Given these developments, the Malawi Office of the Director of Public Procurement (ODPP) was established under Sections 5 and 6 of the Public Procurement Act PPA (2003) as the ultimate authority for all procurements. The ODPP also has an oversight responsibility, and prescribes regulatory mechanisms, including setting thresholds for procurements. With the enactment of the PPA (2003), Local Government was supposed to amend the existing Local Government Act LGA (1998) to align it with the PPA (2003). Ironically, the councils continued operating under the CTBs, which were absent in the PPA (2003) and this made them do their procurements illegally due to lack of legal frameworks. This means some of provisions of LGA (1998) needed to be overhauled to accommodate the provisions of the new Law. However, studies by S.G.S, (2010) have revealed that Local Government issued By-laws in 2009 that recognised public procurement legal framework in its operations. This replaced the CTBs with the Internal Procurement Committees (IPCs) to eliminate political interference with the procurement processes common at that level. By eliminating politicians, it was assumed that corruption during procurement processes would be significantly reduced. It was estimated that expenditure on procurements by Local Government was at about 60% to 70% of the total annual budget. This is a huge amount of money that is usually wasted through procurement malpractices. This money could have otherwise trickled down to the poor and save life somewhere in the villages.

Despite these reforms, (O'Neil. & Cammack, 2014 and Mwabumba, 2011) argued that Local Government is still far from meeting the minimum standards of public procurement requirements. City, municipal and district councils had not yet established effective IPCs and Procurement Units (PUs). Besides, many stakeholders do not fully know the importance of IPCs and PUs.

Instead, IPCs and PUs have been blamed for their meticulous public procurement processes, which seem to delay the supply of goods and services.

The Public Procurer (2008) cited the Minister of Public Procurement, Dr. Bingu wa Mutharika, who argued that decision-makers, procurement professionals and business executives needed to demonstrate great accountability when discharging their procurement functions. The emphasis here is that growth of the nation would only come through prudent procurement as championed by transparent procurement professionals. However, Mwabumba (2011) reiterated that one major factor for the failures of Malawi procurement system was because top management do not recognise the role of procurement professionals. Despite huge expenditures on procurements, some CEOs are not able to align their procurement function with the procurement guidelines. This is the reason procurement system has failed in Malawi. Ironically, Malawi's annual budget does not exceed MK 930 billion, yet it spends about 70% of this (MK650 billion) on procurements which are also handled by junior procurers. The issue here is not about low academic qualifications but rather the procurement function itself which is pegged at lower levels in many organisations (O'Neil & Cammack, 2014). This arrangement leads to abuse of public resources by senior officers who use their authority to threaten the junior procurement officers. Since junior staffs do not form part of management, there is no procurement representation at management meetings to guide them on proper procurement process.

During the preliminary presentation of the SGS (2011) audit report for both Local and Central Governments, it was revealed that, out of 35 councils, none of them was close to reaching the minimum procurement compliance levels. The main reason was lack of PUs. Indeed, no progressive organisation can operate without PUs. The procurement professional is strategically positioned to add strategic value to organisations by identifying business opportunities that help build strong relationships with other organisations in the supply chain, leveraging their innovation to seed fresh ideas and business processes.

In a multifaceted business environment of the 21<sup>st</sup> century, information gained from supply-chain partners is often key to competitive advantage. In the process, management of the procurement processes is one of the most important functions performed by the procurement professionals. To perform these well, procurement professionals are required to have strategies, skills, and patience. Procurement is a complex process that demands comprehensive attention to detail in order for it to be meaningful. Like any other function, there is need for procurement entities to use qualified professionals to improve the processes. Qualified professionals would then provide possible solutions to current procurement ills. Likewise, IPCs alone cannot address the problem of procurement compliance without the existence of procurement professionals.

Procurement function manages all processes of open competitive tendering, restricted tendering, request for proposals (RFP), request for quotations (RFQ), and single sourcing wherever necessary. The procurement function constitutes an important function considering that large percentages of annual budgets go towards procurements. Thus, sound decisions made on procurements will go a long way in saving the scarce resources (PPA, 2003).

Given these, this study sought to analyse the possibility of upgrading the procurement function to managerial level to enhance public procurement procedures compliance within the councils so that value for money is realised. The PPA (2003) requires all public agencies to form IPCs. In local government, PUs as Secretary of the Committees manage procurements while operating under IPCs. Procurement Units generally feed their procurement work up to IPCs for final approval. The IPCs is made up of the District Commissioner (DC), Director of Finance (DoF), Director of Public Works (DoPW), Heads of major sectors and Procurement offices, (POs) who is also the only junior officer in this committee (O'Neil & Cammack, 2014). This study therefore focused on procurement function because it is the function that is visible to the public when it comes to selecting good suppliers for services. Moreover, procurement, being at the centre of fiduciary management, is important that it functions to the best interest of the publics. Furthermore, enormous savings and value for money can be realised if prudent procurements are made (Dimitri, 2013)

### **1.3 Public Procurement in Local Government after Reforms in Malawi**

Malawi has a population of about 17 million people (NSO Report, 2014). As a landlocked country, its economy depends on agriculture and donor funding. As a former British colony, it adopted the British style of governance (Chirwa, 2013) hence depends on Central and Local Government systems. Local Government constitutes city, municipal and district councils. Its annual budget stands at about MK 930 Billion (USD 2.5 billion) and 70% of this is spent on procurements (Agaba, & Shipman, 2014). Given this, then the role of the procurement function becomes critical. There is thus the need to put in place sound procurement systems, which will add value for money in all public procurements. Accordingly, Malawi enacted the PPA (2003) to make procurement processes transparent and cost-effective. The ODPP was then established in 2004 to regulate all public procurement functions.

The PPA (2003) requires all public agencies to form IPCs (S9) and specialised PUs (S10 & 11). These agencies are mandated with management of procurements, with the PUs feeding procurement works into the IPCs for final approval. The IPCs mainly contain the most senior officials at Central and Local Governments. Members of the IPCs are supposed to be knowledgeable in the basic principles of public procurement for them to make informed decision about what, how, when and where to procure.

Procurement procedures vary from one threshold to another threshold value of goods being procured. For example, goods over MK5 Million may require an approval from the ODPP if the entity procuring them is not in the unlimited category (O'Neil, & Cammack, 2014). However, it is mandatory under the Malawi Government Procurement Framework (MGPF) that the head of procurement departments are advisers to the IPCs. The main roles of PUs include advising members of the IPC on the principles of public procurement procedures (PPPs) each time a decision is being made about what, when, how and where to procure goods; procurement planning; pre-qualifications, bidding, request for proposals and request for quotations, invitation notices and shortlists, issuing invitation documents, receiving tenders and bidding deadlines,



assisting the IPC with the public bid opening, evaluating tenders, proposals and quotations, preparing evaluation reports, conducting post-qualifications and negotiations, and making contracts award recommendations to the IPC. The PUs also help with issuing of contract award notices, preparing and issuing contract documents and purchase orders; administering contracts, and contract amendments (Malawi Government Regulation No. 22, 2004)

There are however enormous challenges experienced by the PUs when discharging their duties. For example, most procurement teams are made up of junior staff and this affects their ability to advise the IPC and its Chair on procurement compliance procedures (O'Neil, & Cammack, 2014). Likewise, many people do not understand PPPs hence interfere with the daily operations of the procurement processes. In many city councils, purchases are procured under emergency procedures by passing the PUs, and requisite documentations is prepared retrogressively to legitimise the purchases (O'Neil & Cammack, 2014).

#### **1.4 Procurement in city councils**

City councils in Malawi operate under Local Government. Local Government comprise of 35 single tier councils. Out of 35 councils, there are only four city councils: Blantyre and Zomba in the Southern Region; Lilongwe in the Central Region and Mzuzu in the Northern Region. The four city councils are the most structured unlike district and municipal councils. However, all councils are responsible for their local development projects. They are required to engage local communities, the private sector and Non-governmental Organisations (NGOs) as stakeholders (Malawi Local Government, 2013). For these councils to implement their development agenda well there is need for systematic procurement of goods and services. However, it is believed that goods and service delivery is still poor due to public procurement noncompliance even though the degree of this problem is still cloudy (Thai, 2008 & SGS, 2011). The general perception is that the procurement function is slow due to red tape (Massey, 2010). Accordingly, this study sought to analyse public perceptions about the procurement function. It also attempted to analyse practices that influence procurement compliance. It in the processes attempted to identify solutions that can bolster procurement compliance in the councils.

Procurement in the councils is regulated by different regulations. Under the District Development Fund (DDF), a manual is issued by the decentralisation Secretariat, and circulars from the Department of Local Authorities (DLA) under the OPC cover the remaining procurement processes. There are further procurements that are covered by Local Development Fund (LDF) and Constituency Development Funds (CDF). Members of Parliament, (O'Neil, & Cammack, 2014), utilise the LDF for rural development. Unlike LDF, CDF develops MPs constituencies. All infrastructures at council level is developed using LDF. For example, in 2013, Blantyre City Council received MK273 Million as its first disbursement for construction of school blocks and toilets. The actual percentage appropriated to the councils is, however, not known, as distribution of such funds is demand driven. Unlike CDF, LDF accounts for about 50% of what the Central Government contributes.

As part of the reform processes, Malawi enacted the PPA (2003) and the ODPP (2004) to ensure transparency and value for money in the procured goods and services. Nevertheless, there has been limited procurement achievements at Local Government levels hence validity of this study.

Briefly, the procurement function manages procurement processes through tendering. This is one of the essential activities. If this process is handled well, transparency is achieved and councils would spend the funds prudently during procurements. The issue however is, given the delicate nature of these processes; there are usually problems of using shortcuts, employing wrong methods and allowing wrong personnel to execute procurements. This study thus attempted to identify the means for improving procurement compliance in councils. It is clear that procurement functions make crucial decisions when selecting suppliers for goods and services.

### **1.5 Challenges faced by Procurement Departments in the Local Government**

According to O'Neil, & Cammack, (2014) procurement in the Local Government is perceived as complex because it involves a number of authorities. For instance, the Local and Central Governments and donors fund the LDF and the CDF. CDF is channelled through the MP of the intended constituency. Some MPs spend this money without following procurement procedures and abusively. While LDF and CDF are all guided by the PPA (2003), some studies have revealed that discrepancies in their use exist. For example, the LDF Secretariat controls one part of LDF; while the other part is controlled by the Project Implementation Committees (PICs) which oversees community-based projects. Although the public procurement framework (PPF) for councils is clear, some councils think that it only concerns procurements at Central and Local Governments. They think that procurement compliance only concerns huge purchases above the MWK5 Million threshold (Bovis, 2005 & Mawindo, 2015). The award of contracts above this threshold is subject to the rigorous regime of public procurement processes such as advertisement, selection of tenders, award procedures, and award criteria. Contra-wise, the award of contracts below MWK5 Million threshold must only follow the basic rules. This kind of discrimination is the cause of disagreement in procurement management. This is perhaps the kind of assumption that breeds the abuse of the LDF and CDF. Realistically, any institution that handles public resources must follow PPPs. The provision of procurement thresholds does not necessarily mean that some purchases can be exempted from the PPPs since that would breed corruption. Moreover, reporting structure of procurement staff in the city councils is not very clear. The regulations assert that, for all purchases above the MK5 Million threshold, procurers must first report to ODPP through PUs. If the funds are from Central Government, PUs must report to Central Government Stores if you are buying stationery and related services. These are the situations that challenges procurement staff in the Local Government.

### **1.6 Significance of the study**

While departments, policy-makers and procurement professionals have paid great attention to procurement reforms, the profession of procurement has been a neglected area of academic study and research (Thai, 2008).

Nevertheless, procurement system is a dynamic field that cannot be easily understood in terms of the elements that constitutes it (Thai, 2001). Briefly, key processes involved include procurement policy-making, management, regulation, authorisation, appropriation, operation and stakeholder feedback. The procurement regulation established by management executives constitute the institutional framework within which public procurement professionals implement their authorised procurement programmes. Above this, procurement professionals are accountable to policy-makers. Since public procurement is a constitutional right, feedback to policy-makers regarding all operations is very important for them to adjust the policies and these later help improve the function.

The increased awareness about the roles of the ODPP (2004), the PPA (2003) and the roles of procurement departments have helped ease the work of the PUs as they now freely execute their functions. However, the PPA (2003) emphasise more on the procurement function as the hub and the need for its innovation to transact business effectively. While, there have been radical shifts from the centralised system to the decentralised system since 2003, many senior managers in the councils do not really understand public procurement functions and management (Eyaa & Oluka, 2011). Accordingly, resistance still exist as some procurements are initiated and executed by user departments. For example, in 2013 Lilongwe City Council bought desks, windows through the initiation and execution of the users only (O'Neil & Cammack, 2014), and this was also common in most councils. This is also an issue that has validated this research. Procurement in public institutions is further confronted by issues of supplier evaluation, contracts awarding and post-contract award transactions and analyses; competition maximisation and right source selection, socio-economical regulations compliance; professionalism achievement, procurement workforce capacity; transparency and fraud elimination and ethical issues (Erridge, 1995). According to Thai, (2001), several studies have only focused more on policy and regulations than on the difficulties procurement function faces when executing its functions. For compliance levels to be maximised, procurement function needs a lot of support from the controlling officers and their line managers.

The relationship between the procurement function and compliance levels may take two folds. One, it is a mandatory obligation of controlling officers to establish such functions according to the PPA (2003: sections 10 & 11). Secondly, only qualified professionals should manage the procurement function (MIPS Act, 2015). These professionals are the custodians of Public Procurement Regulations at institutional level. Nonetheless, the task elevating the status of the procurement function to that of senior management levels has been problematic in many city councils (Mawindo, 2015) so much so that it has compromised the bargaining power of the procurement professionals before top management.

Give these challenges; developing theories of public procurement and appreciating the interrelationships that exist between strategic procurement function and compliance levels within the city councils become necessary if we are to gain positive results. Additionally, the need for further studies on issues of this nature; the need for integrated empirical theories, principles, and methods for strategic procurement function are extensively acknowledged in the general procurement management (Baily, *et.al.*, 2008; Cousins, *et.al.*, 2006; Carr, & Smeltzer, 1999;

Quayle, 1998 & Ferguson, *et.al.*, 1996). Procurement professionals and policy-makers alike need these theories to develop and implement sound procurement procedures. This will then eventually help balance competing elements of the entire procurement processes.

Thus, the motivation for this study was to develop a wide-based theory in the form of holistic redesigning of the existing framework for management entire procurement systems in the Local Government. This framework will also serve as a tool for those involved in public procurement in similar environments. Since compliance levels are relatively low in the councils due to some reasons, this study adopted the Case Study approach while utilising a qualitative research method to redesign the framework. This study also examined issues that affect procurement compliance in the councils. Such issues included lack of provisions in the current legal framework to give powers to the law enforcers. Beyond this, the study sought to contribute to the field of public procurement through minimisation of the gaps that exist between practice and theory by proposing meaningful training to public procurement key players. To do this, theory, principles, methods and procedures were redesigned to help those involved in public procurement understand and comply with ethical procurement procedures. These were later integrated into the re-designed framework.

The significance of this study was reinforced by PPA (2003), which acknowledges that effective integration of specialised procurement professionals is the heart of successful public procurement outcomes (Sections 10 & 11). However, without a better understanding of the agency factors, institutional benefit and resource-based factors supporting the organisational management of the procurement function, efforts to enhance procurement compliance may not be easily achieved in the councils. Moreover, this study would, in some way, contribute towards policy initiatives such as those offered by the ODPP and the Staff Development Institute. Studies of this nature will provide additional steps towards the direction of a more focused public procurement research (Williamson, 1996). Given these assumptions, findings from this study will generate new knowledge base in this field, and contribute towards the repository of public procurement literature.

## **1.7 Research problem**

Compliance levels continue to be very low in the city councils of Malawi despite the efforts made by the ODPP to establish structures for enhancing compliance levels (Mangulama, 2010). The ODPP as a regulatory body has the mandate to conduct procurement audits in public institutions. In the 2010/11 financial year, the ODPP in conjunction with SGS conducted a national audit and monitoring exercise. The audit revealed high levels of non-compliance with procurement procedures in many public institutions. Worrisomely, Local Government and city councils scored poorly in that report. See the table below for the results of the audits.

**Table 1.1      Compliance levels in Local Government**

Council	Contracts planned to be Audited	Audited Goods	Audited Works	Audited Services	Level of Compliance
A	8	7	0	0	Partial,    15%
B	8	0	0	0	Un auditable, 0%
C	8	0	2	3	Un auditable, 0%

*Source: ODPP/SGS (2011)*

The table above shows that out of eight contracts that were planned to be audited, there were no contracts that were audited at entities B and C due to poor record keeping. The two entities were then declared un-auditable. There was literally no single document that the auditors found signifying that resources might have been abused. The procurement audit for entity C also revealed that some procurement contracts did not comply with public procurement procedures hence the niche for fraud and corruption.

However, a review of current literature has shown that current public procurement theories and frameworks for improving procurement operations in Malawi are insufficient to address such problems. Accordingly, this study aimed at developing a reliable framework that would enhance public procurement compliance, and enable integration of this function with other functions within the councils. This was meant to bridge the gaps that exist now between procurement function and other functions within the councils.

**1.8      Research questions**

The present study addressed the following questions:

- 1) How can the procurement function contribute to the attainment of city councils’ goals?
- 2) Why is there lack of compliance with procurement procedures in the city councils?
- 3) Is it valid to assume that the procurement function can enhance compliance levels in the city councils?

Addressing the above questions ultimately led to the development of a framework as a solution to the research problem resulting in the attainment of the aims in 1.2. We believed that by outlining the major deficiencies of the current approaches, and elaborating the solutions, a unified framework would be developed to help the councils improve and implement sound operations that would comply with the PPA (2003). The proposed framework would then generate new knowledge in the field of public procurement through providing a body of literature in this field. Importantly, experience and expertise of the researcher in the procurement field will also immensely bring practical experiences based on real-life situations.

### **1.8.1 Research Aim and Objectives**

This study aimed at investigating the reasons behind lack of procurement compliance in Local Government, and the role of ODPP and the PPA in improving compliance in the councils. To do this, the overall aim was broken into the following objectives:

- To undertake a critical review of literature about procurement compliance and the factors that inhibit lack of compliance levels
- To critically evaluate existing MPPF, the role of the ODPP, and public institutions from a public procurement compliance perspective
- To undertake empirical case studies in the city councils, using a process-based approach for identifying compliance levels
- To propose amendments to the existing frameworks which if implemented can result in improved compliance levels

### **1.8.2 Research Methodology**

This section describes the chosen research methodology and its suitability. This is based on the assumptions that conducting a successful research and developing best theories require the adoption of an appropriate methodology.

The main questions that the research paradigm answered were ‘What? How? and Why? This being an interpretive philosophical study, there was a possibility of utilising different applicable methodologies. One approach was by way of ensuring that the results would be of highest quality, credible and transferable (Catherine, 2002). However, Strauss and Corbin (1996) identified the type of research question, control of an investigator over actual behavioural events and focus on contemporary issues and historical phenomena as some of the criteria by which the advantages and disadvantages of a research methodology could be measured. Amongst the interpretative Case study approaches; case studies offered unique benefits to this thesis given the nature of the topic under study (Jones & Alony, 2011). Case Studies are usually deductive and inductive in nature. Moreover, they allow the researcher to develop a theoretical account of the general features of a topic while simultaneously grounding the account in empirical data.

### **1.9 Theoretical and practical contribution**

Some of the major problems faced by the city councils in complying with the PPPs include poor alignment of the procurement function; lack of familiarity with procurement procedures by the stakeholders; and lack of professionalism by the procurement staff (Eyaa, 2011 & Tutu, et.al 2011). This study would therefore help benchmark a framework for public procurement that will be used by both Central and Local Governments. Moreover, the results will also be beneficial for policy-makers, procurement practitioners and the ODPP.

### **1.10 Outline of the study**

In the subsequent chapters, different perspectives in relation to strategic procurement and how it affects levels of compliance in the city councils have been addressed. The role of procurement function in enhancing compliance levels, and how councils may benefit from best practices has been analysed. The thesis has been arranged in such a way that it will enable reading of each chapter in isolation. This thesis also consist of five chapters.

### **Chapter 2 – Literature review**

Chapter 2 reviews literature on public procurement compliance within the Local Government in Malawi. The main objective was to analyse theoretical assumptions of public procurement and how it stifles strategic arrangement of the procurement function and levels of compliance. Theories in strategic procurement, importance of compliance with public procurement procedures, issues of corruption and fraud and the impact of centralisation and decentralisation on strategic procurement have been examined. The chapter has also attempted to generate theoretical foundations and research questions for the study based on what other scholars have already done and the gaps they left unfilled.

### **Chapter 3: Research design and methodology**

This chapter reviews various research philosophies and paradigms; methodologies, and methods which are commonly used in Social Sciences. The main reasons for selecting qualitative research method and Case Study approaches for collecting data have been provided. The chapter has further presented the criteria used for selecting the research participants.

### **Chapter 4: - Research analysis, findings and development of framework**

This chapter has analysed the collected data through qualitative coding theory. The conceptual relationships between the findings and the literature reviewed have been established. The analyses have also helped detail a set of frameworks that have been designed to provide implications for practicing certain procurement practices in the councils. In addition, policy-makers, the ODPP and other stakeholder have been sensitised on how best they could improve on compliance levels in their councils.

### **Chapter 5 – Conclusion, implications and recommendations of the study**

This chapter has provided a summary of the theoretical and practical implications of the study. Critical discussions on the implications of the findings have also been analysed. It has further discussed the contributions the study has made towards the enhancement of strategic procurement processes. Limitations of the findings have also been analysed. The chapter has finally provided recommendations and areas that call for further investigations.

## CHAPTER 2 LITERATURE REVIEW

In this chapter, Agent Theory (AT), Stakeholder Theory (ST), Public Value Theory (PVT), and Resource-based Theory (RBT) have been reviewed. In addition, literature on the importance of procurement compliance has been analysed (Awino & Getuno, 2014). The main objective was to examine the theoretical perspectives that contributed to challenges faced by the procurement function when it comes to enforcing compliance levels in the city councils. The structure of public procurement has also been analysed to establish how it affects the speed of selecting and awarding contracts to suppliers. In the process, issues of transparency and corruption have been analysed. Along with this, the roles of bureaucratic structures in curbing corruption in the procurement processes have also been discussed. Based on the gaps identified, the conceptual framework has finally been proposed for its inclusion in the decision-making hierarchy of the councils.

### 2.1 Theoretical background of the study

Compliance refers to a set of behaviour prescriptions designed to regulate an independent group of human activities in a coherent fashion (Obanda, 2010). Explanatory variables for non-compliance in local government cannot be explained properly without looking at the procedures used for procurement of goods and services. Compliance by those involved in procurement use different theories that deal with human behaviour. Different schools of thought have different views about how to deal with behaviour of humans for them to comply with a particular set of rules. This study thus looked at the following theories and selected the most appropriate ones: Principal Agent Theory (PAT), Stakeholder Theory (ST), Public Value Theory (PVT), and Resource-based Theory (RBT) as principal theories. The most appropriate theory selected would then help explain the observed behaviour.

#### 2.1.1 Principal Agent Theory

Principal Agent Theory (PAT) was first advocated by Alchian & Deinsetz (1972) and was later redeveloped by Jasesen & Meckling (1976). The PAT defines the relationship that exist between principals, such as shareholders, agents, company executives and managers. In PAT, shareholders hire agents to perform certain duties on their behalf. Then there are principal delegates who run the business on behalf of the shareholders (Clarke, 2004).

The aim of both public and private organisations are to maximise the market value of their offerings which is more than often not compatible with the interest of the managers, as they prefer to maximise their own personal interests even at the expense of their principals. This discrepancy of interests leads to agency conflicts, which are severe in public institutions (Jesen-Meckling, 1976). The separation of ownership and control causes serious conflicts of interest between stakeholders and managers, and shareholders and creditors.

Until to date, institutions do not have owners in traditional sense. Shareholders are typically dispersed and are unable to manage the entities that they own (Jerzemowsk, 1999). They have to hire agents (managers) to manage their firms on their behalf. In practice, shareholders act as



investors not owners. Owners focus on the business performance of the firm and investors focus on the risks and returns on their stock portfolio. Therefore, investors tend to be inactive shareholders in many firms (Kim-Nosfinger, 2004). This conflict between shareholders and managers has resulted in the formation of contracts to mandate the agency relationship.

According to Obanda (2010), the parties have an agency relationship when they cooperate and engage in an association wherein one-party delegates work to another to act on their behalf. The assumptions underlying the PAT are that potential goal conflict exists between principals and their agents. In addition, these agents are more risk disinclined than the principals themselves are. The PAT deals with situations in which the principal is in a position to induce the agent to perform some tasks in the principal's interest, but not in the agent's interest (Cliff & Prier, 2015). Accounting and procurement officers in public institutions act as both agents and stakeholders. Noncompliance with public procurement processes may come about because of principal-agent problems. The PPA (2003) empowers accounting and procurement officers to enforce and check procurement process compliance by the served entities.

The PAT is useful here in explaining the relationships, which exist between government and the city councils when it comes to managing procurement compliance dilemmas and the provided funds. The PAT will also help explain how the actions of the agents affect the principals and other stakeholders when making non-optimal decisions during the authorisation of financial resources (Zachary, B.A, 2014). The relationships explained above are more suitable to this research given the relationships that exist between the stakeholders, government and the procurement function and the suppliers.

### **2.1.2 The Institutional Theory (IT)**

The IT adopts a sociological perspective to explain organisational structure and behaviours (Bor, et.al, 2015; Tolbert and Zucker, 1996 & Dunn, 2010). It draws attention to the social and cultural factors that influence organisational decision-making, and how rationalised activities are adopted by organisations (Scot, 2001). Public agencies as organisations are considered as actors in as far as their field unit is appropriate and promote values and interests that are embedded in the local communities where they operate, and not just as machines implementing goals and values defined by the principals. The first lesson is that incongruities may exist between the declared ends and those that the agency actually achieves or seeks to achieve. It pursues self-support and maintenance goals, as well as productions ends. It turns into polymorphous systems, whose struggle to survive, induces negligence or distortion of goals. Public bureaucracies possess a life of their own and even become active entrepreneurs. People who participate in this do not act solely in accordance with assigned roles. Therefore, public management is not limited to the art of designing formalised structures, but also consider the way participants are influenced, transformed and completed by informal structures. What happens at the bottom of the hierarchy, in the grass roots matters more than what happens at the top (Thoening, 2011). Thoening, (2011) further adds that institutionalisation involves processes through which the numbers of an agency acquire values that go beyond the technical requirements of organisational tasks. No organisation is free of values. To institutionalise is to infuse values beyond the technical requirements of the task at hand (Thoening, 2011). It is induced by selective recruitment of personnel, by establishing

strong ties or alliances with outside groups through processes such as implicit alliances, sharing common values or co-optation of local partners. Thick institutionalisation is achieved when some rules are sanctified, when some units of the agency become semi-autonomous centres of power and develop their own interests, and when administration rituals, symbols and ideologies exist. Public institutions develop in a gradual manner. Both insiders and outsiders should value them for the special place they hold in society. However, (Obanda, 2010), added that IT is the traditional approach that is used to examine elements of public procurement. Conversely, (Scot, 2001) identified regulatory, normative and cultural cognitive as the main pillars of the IT. The regulatory pillar emphasises use of rules and sanctions as enforcement mechanisms, with expedience as basis for compliance. The normative pillar emphasised norms and values with social obligations as the basis for compliance. The cultural cognitive pillar emphasised shared understanding on common beliefs, symbols and shared understanding for compliance.

The IT is based on assumptions that operations are possible through delegation of agents and this makes it similar to the PAT. What lacks in the IT are clear lines of delegations. It is further clear from the discussions above that the IT is more applicable in developed countries than otherwise because of the strong adherence to rules and procedures in those countries. The IT as a result becomes a very weak theory to guide this study.

### **2.1.3 Public Value Theory (PVT)**

The PVT aims at reinvigorating the role of publicly formed values in public administration theory and research (Barry, 2007 & Mark, 2013). It attempts to reconcile the conceptual antagonisms between traditional public administration (TPA) that seeks to limit corruption and bring expertise to administration by establishing a more autonomous legal rational organisation and new public management (NPM) that focuses exclusively on sharply reducing public bureaucracy through measures and organisational practices based on economic efficiency. Rather than viewing these divergent approaches to public administration either as dichotomies or rejecting them, PVT recognises the important dimensions of public administration that they raise and incorporate their most salient features in a more inclusive approach that emphasises the role of values. PVT attempts to join economic efficiency, organisational practices, rationality and independence in public administration, and the formation of public values and interests in an encompassing approach. It is both less insistent on specific organisational forms of public administration than TPA and less focused on narrowly construed criteria of efficiency than NPM.

PVT is located in efforts to formulate public administration in relation to historically compelling issues. Beginning in the late nineteenth and early twentieth century, there were prominent efforts to formulate public administration as independent from narrow political interests in order to minimise corruption, especially by big city and state political machines. This approach, sharply challenged TPA in the late twentieth century. During the time of economic changes, fiscal restraint and ideologies that stressed small government, NPM focused on market-based formulations of public administration that emphasise economic efficiency. Following the recession of the early twenty first century, PVT has sought to transcend the tensions that characterise these approaches within a democratic political framework. In its synthesising effort,

PVT recognises the limiting boundaries of both TPA and NPM. TPA does not have an internal mechanism or logic that limits the expenditure of resources dedicated to organisational growth. NPM does not provide for organisational autonomy and for rule-governed transparency. Moreover, neither TPA nor NPM has clear democratic transparency embedded in their logics or practices.

PVT is largely an academic movement within the field of public administration in which scholars largely borrowed pre-existing practices from business or policy makers. PVT emerged during the monumental global financial crisis that began in 2007 that was followed by the global recession from which the world economy has been slowly recovering. Unlike the 1970s, this crisis triggered a renewed interest in government regulation and intervention in the private economy. In the face of these conditions, PVT seeks to combine governmental action with the resources of business and the non-profit sector. Broadly, the aim is to develop public administration as collaborative, democratic, and focused on governance.

In addition to its economic and political context, PVT responds to contemporary technologies and societal norms that have flattened organisational hierarchies. John, et.al (2011) argued that public administration is moving beyond TPM and NPM towards PVT as a response to challenges of networked world and to shortcomings of previous public administration policies. Neither state nor private entities are capable of adequately addressing public issues. With emerging telecommunications and databased decision-making, new institutional possibilities and approaches are emerging that include features of earlier paradigms.

Institutionally, the new approach prioritises democratic values while seeking to combine governmental action with the resources of business and the non-profit sector (John, et.al, 2011). Government is not only capable of taking the lead on public problems by harnessing its own resources, but also through convening the resources of business and non-profit sectors. Thus, PVT advances a theory of public administration that is neither strictly bureaucratic nor market based, but rather collaborative, democratic, and focused on governance.

However, Moore (1995) argued that PVT was formulated to provide public sector managers with greater understanding of constraints and opportunities within which their work and challenges faced when creating valuable outcomes. Bengton & Moore (2010) argued also that the PVT envisages managers' purpose as going beyond implementation of policy and adherence to institutional norms. It includes seeking out opportunities to make significant improvements to the lives of the public. According to Erridge (2008), contrary to the private sector, public sector organisations provide services and are directly accountable to the citizenry and their representatives.

Criticisms of PVT focus on its relevance given the severe inequalities in the current political order. The massive inequalities in power and participation in politics undermines the capacity for politics to serve as a legitimising process. Political inequality is certainly a very serious issue; however, considering that TPA and NPM compartmentalised politics outside public administration and used alternative to legitimising rationales, PVT's turn toward the political

process is a positive direction. By bringing in politics, it opens up questions about the relationship of public administration to democracy and to issues of inequality. While both TPM and NPM sought to insulate policy and administration from politics, TPM recognises that public administration is intrinsically related to values and goals that emerge from the broader society and the political process, and that public administration gains legitimacy and adds value in relation to the broader society and political process.

A key issue is how the PVT can achieve the balance between democratic access and accountability to public institutions and market organisation and imperatives.

A final issue that needs careful understanding in the PVT is the unprecedented government contracting that has been ushered in by NPM. The relationships among government authorities and contractors constitute an arena of public provision that does not only constitute public values, but also where responsibility and transparency are problematic. This zone of intersection, which is largely defined through contracts, demands analytic attention from the vantage point of PVT. This matter makes PVT not very suitable to guide this research study.

#### **2.1.4 Resource Based Theory (RBT)**

The RBT is concerned with the idea that firm's internal resources can be direct source of sustainable competitive advantage (SCA). This is different from the traditional notion of competitive advantage popularised first by Porter (1985) which emphasised competitive advantage was attained for the firm through external means such as product, location, or customer base. Sveiby (2000) draws the distinction that while traditional views of competitive advantage, such as Porter's are product oriented, RBT is knowledge based. The notion that firm's human resources could be a source of SCA dates to 1984 (Fahy, 2000, and Wright & McMahan, 1992). Penrose (1959) provided initial insights of the resource perspective of the firm. However, the RBT's view of firm was put forward by Wernerfelt (1984) and was later diffused by Barney's (1991). Many authors, for example, Nelson & Winter, (1982); Zollo & Winter, (2002); Zahra & George (2002); Dierickx & Cool (1989); Mahoney & Pandian, (1982) and Winter, (2003) made significant contributions to its conceptual development. The RBT emphasises the importance of resources, their influence on performance of the organisation and their competitive advantage in the market. According to the RBT, every organisation has its own unique resources that enable it to remain competitive by addressing the rapidly changing environment of the market (Heitat, 2007). These resources may be financial, human, physical, technological and information and must be valuable and non-sustainable (Cork, Ketchen, Combs & Todd, 2008). According to RBT pundits, organisations that own "strategic resources" have important competitive advantages over those that do not. Some resources, such as cash and trucks, are not considered strategic resources because any competitors can acquire them. Instead, a resource is strategic to the extent that it is valuable, rare, difficult to imitate, and non-substitutable.

Summarily, the RBT reels around these:

- Resources such as local government's culture that reflect all four qualities: valuable, rare, difficult to imitate, and non-substitutable—are ideal because they can create sustained competitive advantages. A resource that has three or less of the qualities can provide an edge in the short term, but competitors can overcome such an advantage.
- Firms often bundle together multiple resources and strategies that may not be unique in themselves to create ubiquitous and powerful combinations. Local government's culture is complemented by approaches that individually could be copied— the local government's rigidity on inclusion of strategic procurement function in its management system deprives councils of unique business resources in which effectiveness and efficiency in the councils would be leveraged and competition minimised.
- Satisfying only one or two of the valuable, rare, difficult to imitate, not substitutable criteria may only lead to competitive parity or a temporary advantage.

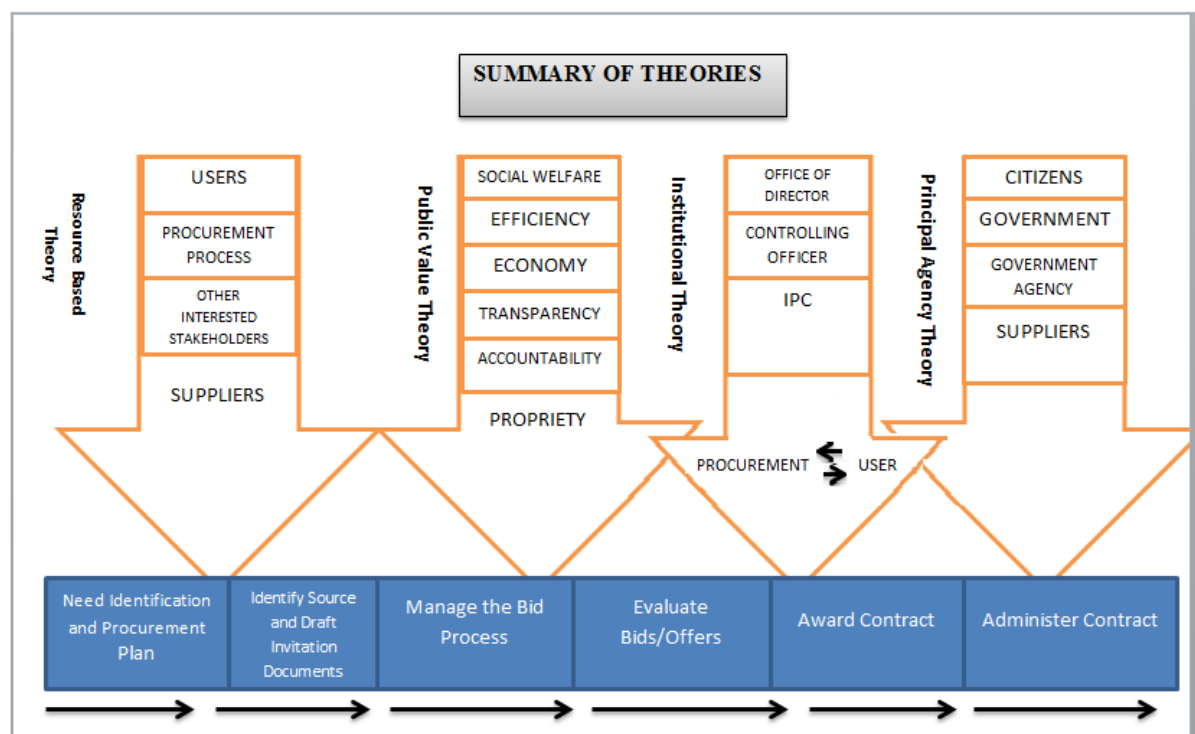
The main challenges of the RBT are that while some resources may contribute towards competitive advantage, others may not. This theory may hence not be entirely reliable on this basis. Moreover, mere availability of resources does not really mean that they contribute towards competitive advantage, unless such resources are well coordinated and prudently integrated (Lopez, 2005). Implementation of the public procurement legal framework in the Local Government requires city councils to have capabilities in terms of trained staff in public procurement, human resources management and leadership to drive the entire organisation on how it should effectively implement procurement plans.

This study is about non-compliance with procurement procedures in city councils. Its focus is on how the legal framework affects levels of compliance with procurement procedures by city councils. As a result, the RBT is falling short of providing the much-needed direction for this study.

### **2.1.5 Recommended Theory**

This study will adopt the Principal Agent Theory (PAT) as it is deemed the most appropriate. The theory is going to be analysed further for its suitability.

Figure 2.1 summary of theories



Source: Researcher: (2016)

2.1.5.1 Principal Agent Theory

The problem of the PAT is that it is closely associated with the concept of adverse selection. According to Akerlof (1970), adverse selection refers to the behaviour in which lower quality products are selected because of asymmetric flow of information between the buyer and the seller. The PAT can be connected with the problem of public procurement. First level of the PAT problem in public procurement can be found in the relationship between the buyers and the suppliers. However, considering the purposes of this study, the second tier of the PAT relationship, which is about the government, its employees and the ultimate consumer of the goods, services, and works is more important.

For example, Obanda (2010), and M’Cue & Prier (2007) deal with the PAT’s problems by identifying the main risks in this relationship. The first risk arises when (a) the goals of the PAT are in conflict and (b) it is difficult for the principal to verify what the agent is doing. The other problem is on risk sharing that arises when the principal and the agent have different attitudes towards risk.

This study connects the problem of public procurement with the PAT as follows: the government, which is interested in buying for the citizens, is in this case the agent of the citizens. Besides, there are other levels of this relationship; governmental agencies are agents of the government and the above relationship between the seller and government agency.

This model works in three stages as shown in diagram 2.1 under principal agency structure. The suppliers face the government agency due to the fact that they render goods, works and or services. They are the interface when it comes to delivery of something that is valuable for money (VFM).

#### **2.1.5.2 Government to Government Agency Relationship**

In this relationship, government is the principal while government agencies are the agents. The government agencies should behave in the manner that government wants. Thus, the agents should comply with government rules and procedures. However, government agencies have better information than government. This asymmetry of information creates a problem in terms of compliance and is the source of risk.

#### **2.1.5.3 Citizens to Government Relationship**

Here, citizens stand for the principal while the government for the agency. The government should adhere to the wishes of the citizens and therefore should enter into contracts, which are in the best interest of the citizens. The best interests of the citizens are fully expressed by the PPA (2003) and need to be dog followed. Any deviation from them will create conflict between the two parties.

#### **2.1.5.4 Government agency to supplier relationship**

Here, government agencies are the principals while the suppliers are the agents. Agencies buy goods, works and services but do not know the exact prices at the initial stage. The prices are only known later when bid for the required goods and services have been tendered out and bids received and opened. Thus, the suppliers have more information about production costs. Due to this, the suppliers can then maximise profits even if this can lead to high costs for the agencies. The result is that the suppliers who are selected benefit by charging exorbitant prices.

In conclusion, the PAT provides the background relationship in the principal agency perspective. It does not explicitly delineate policy interventions to enhance compliance levels with set procedures. This will be handled further along with the literature review in the next section.

### **2.2 Brief overview of public procurement compliance (PPC)**

According to Gelderman, et.al, (2010; 2006), compliance has a negative connotation because it is usually associated with enforced behaviour. Compliance occurs when the target performs the requested action, even though they are usually indolent about it. They then mostly put little or average effort to comply. Compliance can be achieved through association and commitment to the desired behaviour.

However, (Obanda, 2010), assumed that compliance involves all behaviours by subjects that conform to prescriptions without specific compliance system. Honneland, in Obanda (2010) regarded compliance as a rule that provides guidelines for best conduct. Compliance has also

been referred to as a set of behavioural prescriptions designed to regulate an independent group of human activities in a coherent fashion (Mwakibinga, 2008).

In the public sector, compliance with procurement procedures is an important issue. It signifies the pursuit of government objectives blended with the established procurement frameworks. What this means is that lack of compliance is an indication on non-pursuit of the intended policy objectives. Conversely, adherence to the procurement procedures can also be used as a measure for governance as well as an influential behaviour in setting the tone in other procuring entities in the country. This shows that compliance with procurement procedures has implications in different perspectives.

In this study, compliance with the PPA (2003) and PPPs (2004) will help the city councils attain procurement objectives through fairness, transparency and accountability. This way, value for money including disposal standards and practice will be realised. However, before looking at issues of compliance in detail, other areas such as finance, accounting, and health and safety at the workplace will be analysed to appreciate how these concept are applied in the course of enforcing compliance and their link with the PAT.

### **1. Compliance in finance and accounting**

At this stage, it is paramount to present a brief analysis of how other functions view compliance and its impact. In finance, the Statement of Standard Accounting Practice (SSAPs and Financial Reporting Statements (FRSs) represent the profession's accounting code of conduct. Giles & Chapel (1994) argued that these statements are prepared for standardising the preparation of final accounts of a business, and that all accounts are expected to conform to these. The accountants are responsible for management and accounting of the financial resources. These professionals are delegated to manage the financial resources. In the public sector, compliance with the established reporting standards is one of the prerequisites for accountants. Whereas laid down financial frameworks are intended to align financial decision-making processes with government's objectives, the implementation of finance and accounting policies however, has not been easy. This has been partly because of lack of monitoring and evaluation mechanisms by the Auditor General's office (Diamond, 2002). For example, Malawi lost over MK187 million in York field scandal in 1997 where money was spent on expensive teaching and learning materials. In 2012, government lost about MK400 billion through the Cash-gate scandal due dubious procurements (Khunga, 2015). Compliance with procurement procedures would have saved huge sums of money that was lost in the said projects.

### **2. Health and Safety at work**

Although health and safety policies aim to improve work culture, there is a growing perception that it has become too bureaucratic and it does retrain growth. Agreeing with this, David Cameron, UK's former prime minister said:

*“Businesses are in the stranglehold of health and safety red tape... We are waging war against this excessive health and safety culture that has become an albatross around the neck of businesses”.* (David Cameron, 2012)



Contra-wise, Dekker, S.A. (2014) argued that the bureaucratisation of safety has provided an array of benefits such as reduction of harm, standardisation, transparency and a reduction of favouritism. However, it has also introduced pettiness, inability to predict unexpected events, structural secrecy and a focus on bureaucratic accountability, qualification and “numbers game”, perceived constraints of employee’s freedom, diversity and has even hampered innovation. Hallowell and Gambatese (2009) undertook Delphi analysis with construction workers and concluded that the bureaucratic aspects of safety programmes, for instance, record keeping, accident analyses and emergency response planning were the least effective in improving employee safety. Besnard and Hollnagel (2014) also critiqued six commonly held assumptions about safety related to human error, procedure, compliance, protection and safety, root cause analysis, accident investigation and safety first. Citing relevant examples, they argued that while reliance on these assumptions made safety management easy, they also made it flawed. They also noted that in some instances, safety issues created more damages than benefits. There are several reports on mainstream media highlighting the behaviour of people due to procedural compliance. For example, look at the following cases:

*‘GP refuses to help 88-year-old as he is not a ‘first aider’ (Chapman, 2014); ‘Man drowned in shallow lake after fire service were not allowed to rescue him due to health and safety reasons’ (Quinn, 2012) and many more events of this nature.*

These are some of the adverse effects of over-complying with health and safety procedures. Given these, it is clear that compliance at work sometimes fail to add value. There are also examples in Malawi where employees have died while at work because of noncompliance with safety issues at work. For example, in 2005, two men were killed in Mzuzu City at a construction site. The death occurred at Mzuzu Central Hospital where Plem Construction Company was building a septic tank (Hlalerwayo, 2005). The construction company was criticised for not adhering to safety measures. In 2012, two men were killed at Kayelekela Uranium mine in Karonga due to poor health and safety measures. The mine collapsed over the workers, killing all of them. In both cases, the companies paid huge sums for compensation and work was suspended until health and safety measures were established in line with the National Construction Industry of Malawi. These examples suggest that while health and safety policies can create a positive working environment, they can also be the source of fatality and costs. That aside, compliance with set procedures is valuable as it reduces unnecessary costs.

The focus in this section, therefore, will be to check how the PPA (2003) and the PPPs (2004) have been complied with and their relationships with the principal agency theory (PAT). Analyses will be made on the effects of not complying with PPPs and why institutions do not comply. Comparative analyses of the Netherlands and Uganda case studies on how they have achieved public procurement compliance will be presented.

It is noted that at operational level, the best procurement approach for enhancing compliance usually differs. While small tenders seem to incur high costs, large tenders present even higher costs through kickbacks (OECD, 2010). Transparency is a component in compliance that needs correct information on procurement contract opportunities, procurement rules, decision-making

and enforcement in order to mitigate maverick buying (Erridge, 2007). In certain instances, compliance maybe inconsistent with the need to ensure maximum competition within procurement processes hence adding more costs than value. Likewise, compliance can also result in unnecessary dissemination of commercially sensitive information, allowing firms to re-align their bidding strategies consequently breeding bid rigging and cartels. Compliance may also make the process predictable leading to collusion consequently increasing the tendering costs.

While compliance is indispensable to limit un-procedural purchases, excessive and unnecessary compliance canvassing should be avoided in order to reduce unnecessary costs arising from the bureaucracies (Erridge, 2007).

### **2.2.1 Compliance with public procurement procedures in the Netherlands' Local Government**

Deloitte, (2014) reported that the Netherlands is one of the countries in the European Union (EU) which is highly decentralised in which power is shared quite differently among central government's 12 provinces and 393 municipalities. Here, each contracting authority is responsible for management of own public procurement procedures, regardless of its level of authority. The Ministry of Economic Affairs, and the Public Procurement Expenditure Centre, coordinates and make policies at the central level. The recent transposition of EU directives into the Public Procurement Act led to a number of changes, which included facilitating better access for SME's, reducing the administrative burden for contracting authorities, economic actors, and more flexible procurement procedures. The Netherlands has increasingly invested in implementing sustainable public procurement mechanisms. This perhaps is one of the reasons it is the world's procurement role model. However, Gelderman (2006) in his study on compliance with the EU Public Procurement Rules came up with the following variables that affected non-compliance levels in the Netherlands:

- Familiarity with the rules
- Perceived inefficiency
- Organisational incentives
- Suppliers' resistance

Gelderman, et.al. (2006) identified purchasers' level of familiarity with procurement rules as one of the main factors that led to non-compliance with procurement procedures in the municipalities of the Netherlands. They observed that at the introduction of the public procurement initiatives, many municipalities did not comply with the regulations because they were not familiar with them (Gelderman, et.al, 2006). Nonetheless, Gelderman, et.al. (2006) confirmed this during a survey on compliance with the EU procurement directives that also suggested that familiarity with the procurement procedures and regulations was significant when it came to noncompliance levels with the system. Another cause of non-compliance according to Gelderman was due to lack of professionalism by the procurers. However, Gelderman emphasised the need for compliance as he thought it promotes transparency and accountability, and helped build trust among the publics.

If the Netherlands experience is anything to go by, then Malawi is most likely facing the same predicament considering that public procurement was only introduced in June 2003. Since regulations were just introduced in August 2003, there is a possibility that the level of familiarity with these rules is still low. Beyond this, implementation of policy decisions is a time-consuming process especially in countries with limited resources. While this could be true, it could also be possible that some people simply want to exercise their innovativeness by beating the system as observed by Eyaa & Oluka, (2011) and Boezman, (2011). This could also be due to the complex and ridged nature of the procurement processes, which often involve many players, and that some might potentially manipulate it.

These said, the benchmark for procurement compliance in the Netherlands was checked against the EU's procurement framework. Therefore, the levels of compliance expected of the Netherlands were of course very high. While most developing countries have, strived to match the Netherlands, they have not really succeeded.

### **2.2.2 Compliance with public procurement procedures in Uganda's Local Government**

Uganda was until 2003 using a procurement system that was established by its colonial masters. The shift from the old system became important because of failure to fit into new governance systems. Partly, the change from central procurement system was a requirement from the World Bank and donors. Most donors believed that, for a country to develop there was need for an effective procurement system. Today, donors provide assistance only where there is a functional procurement system in place.

Uganda's procurement case in the mid-1990s was similar to that of many African countries. It was dominated by centralisation. The CTBs housed in the Ministry of Finance were mandated with the award of contracts just like Malawi. Such a system was characterised by many disadvantages such as delayed execution of procurements. The tender processes were also protracted, and the CTBs had no specialists. These factors hindered the much-needed efficiency and speed at both Central and Local Governments.

### **2.2.3 The level of compliance with public procurement and disposal authority (PPDA) in Uganda**

Uganda Public Procurement Act was also enacted in 2003 like Malawi. The PPDA was formed to enforce the law at the same time. Its role was to help build capacity. This was done by developing training modules, conducting training programmes, and professional development. The regulatory body has since developed modules on various aspects of the law and good practices. Many procurement stakeholders have become familiar with procurement procedures. To enhance professionalism, higher education institutions have been encouraged to develop programmes in procurement. The PPDA has further established a national professional body that controls the entry to the procurement profession. It regulates the conduct of its members in order to increase high level of integrity and ethical behaviour.

Recent studies on levels of compliance have revealed that, Uganda is one of the most advanced countries in terms of procurement efficiency, transparency, and accountability compared to other

developing countries (Bakesha & Sabiiti, 2011). It has also been argued that this is because of the increased recognition of the procurement profession and its contribution towards the management of public resources.

Like the Netherlands, Uganda's compliance levels in the early days of enactment were confronted by serious problems (Eyaa and Oluka, 2011 & Huka, et.al, 2014) due to the following:

- Lack of professionalism in public procurement
- Lack of familiarity with rules of procurement by procurement professionals
- Lack of perceived inefficiency
- Lack of organisational incentives

There were also serious shortcomings in the reform processes regarding the integrity of the procurement systems. The main challenge was failure to harmonise procurement systems with the Local Government Act (LGA). The LGA did not recognise procurement function and its structures. Local councillors and politicians made most of the decisions on procurements. This has been the main reason for local councils failure to comply with procurement procedures in Uganda. Accordingly, the PPDA has been mandated to make intensive follow-ups on each audit and enforce the laws accordingly to ensure compliance (Bakesha & Sabiiti, 2011).

## **2.2.4 Public procurement compliance in Malawi city councils**

### **2.2.4.1 The public procurement framework of Malawi**

Compliance programmes have been with us throughout history if we accept what the bible teaches us. For example, the Ten Commandments found on Exodus 20 vs. 1-11, benchmarks the Christianity and its faithful dog-follow the dictates. If people can follow, abstract rules such as those in religion why not follow procurement laws that promote the urgent good?

The focus here, though, is to check how the PPA (2003) and PPPs (2004) have been followed in the process of executing public procurements. An analysis has been made on the effects of procurement compliance. A further analysis has been made on how public institutions violate the PPA.

## **2.3 The need for compliance**

The purpose of the PPA is to open up public procurement to citizens' competition. The legislation establishes a Legal Framework that govern the procedures for the award of public contracts (Koleta, 2003). The procedures are intended to ensure that contracts are awarded fairly, transparently, and efficiently (Bovis, 2005). Additionally, Ricky Johnson (2010) explained that for such an intricate procedure to yield meaningful compliance, the procurement function should play an essential role to achieve economic savings in short and long terms. However, the reality of this changing world is that procurement processes will have to become more efficient and less cumbersome on the suppliers who bid for contracts.

Anonymous (1994) believed that the new public procurement regime will generally be required to concentrate upon the alignment of the procurement function. The assumption is that like most public institutions, Local Government culture is as important as finance and law; yet these

institutions do not have adequate experience in public procurement. Furthermore, most of the commercial benefits can only be achieved where a strong purchasing function is in place. This function can sometimes be described as ‘managing the external resources.

Sollish and Semanik (1999) believed that procurement professionals should not only understand how laws affect businesses, but also need a thorough understanding of how these laws differ locally and internationally. Public Procurement Laws are used by departments in conducting daily business, and therefore need to be understood fully to enhance compliance.

Since public procurement aims to achieve best value for money, while providing an opportunity for fair competition from suppliers, any expenditure has to comply with the Law (Emmett & Wright 2011; Gerasimos, et al, 2003; Malawi Government, 2003 and Mwakibinga, & Buvik, 2013).

### **2.3.1 The essence of compliance**

- Koleta (2003) described compliance as a process of adhering to organisational framework, and business ethics. He does subscribe to the fact that these frameworks should have meaning to those utilising them to enhance compliance. To further enhance compliance, the following are also key:
  - Evaluation and monitoring cross functional teams
  - The Public Procurement Procedures
  - The Anti-corruption Bureau
  - The Auditor General
  - Civil society organisations and others.

These organs influence procurement compliance in many ways. For this reason, public procurement professionals need to know other stakeholders who also need to understand the procurement function. Public procurement professionals must also comply with multiple regulatory bodies.

In the public sector, it is essential that those involved in expenditures comply with the rules for the reasons below:

In pursuit of regulatory goals, which ensure that, procurement activities and contracts meet the requirement of propriety and transparency; there is need for public procurement professionals to be knowledgeable about clear and concise objectives of public procurement, specifications, contract award criteria and effective contract management.

Public procurement regulations reinforce formal procedures and encourage a risk avoidance culture (Erridge, 2007). Furthermore, Wanyama, (2010) argued that if public entities do not comply with government objectives, it is an indication of non-pursuit of the intended policy objectives. From a legal perspective, this constitutes breach of laws that attract litigation. For example, Brazil lost huge sums of money in the Petrobras Scandal due to procurement non-compliance. The Brazil case led to the impeachment of President Dilma (Rapoza, 2015). Similarly, Malawi is still losing huge sums of money in the same manner it lost well over MK236

Billion between 2012 and 2014 through the Cash-gate Scandal due to bad procurements (Chirwa, 2016).

Public money can be realised in the following ways:

- By means of taxation from country men
- By means of donor funding agencies
- By savings from procurement compliance and good governance.

The procurement professional being a key player in the interpretation and execution of Public Procurement S10 and S11 of PPA (2003), and Regulations 21 and 22, it is important for the Local Government to enforce these provisions. Compliance with these provisions will ease interpretation of the Government Public Procurement Legal Framework.

### **2.3.2 Lack of compliance with public procurement procedures**

Emmett & Wright (2011) observed that in Europe, public procurement laws regulate the purchasing of goods and services by a wide sector of public bodies. The Netherlands Public Procurement Law was derived from the consolidated EU directive on public procurement and all the member states have had to comply with it (Ramsy, 2006). Like the Netherlands, Malawi's public procurement laws regulate all purchases, and procurement authorities must comply with these regulations. These contracting authorities include:

- Government departments and parastatals
- Local authorities
- Police and fire authorities.

Gelderman, et.al, (2006) in his study with the EU public procurement rules, came up with the four variables, which affected non-compliance in the Netherlands. These variables were:

- Familiarity with the rules
- Perceived inefficiency
- Organisational incentives Suppliers' resistance.

Gelderman, et.al. (2006) observed that purchasers' familiarity with procurement laws was one of the main factors that led to non-compliance. They asserted that at the introduction of public procurement regulations, many municipalities did not comply with the regulations because they were not familiar. Considering that public procurement in Malawi is only 13 years old and that the regulations were only introduced in 2004, there is a possibility that levels of familiarity with procurement laws is still nominal (Eyaa & Oluka, 2011). It is also possible that some people are familiar with these regulations but that they deliberately ignore them for their benefit. This is also compounded by the complex nature of public procurement procedures.

Moreover, (Gelderman, et.al. 2006 and Mangulama 2008) observed that lack of professionalism in public procurement was one of the factors that triggered non-compliance in Malawi. Going by these assertions, it is possible that since the procurement profession is still young, it is likely that these professionals are not familiar with the laws. However, the survey that was conducted by the

SGS, (2011) revealed that local government was much more noncompliant with public procurement procedures than the central government. This was also highlighted in the ODPP circular reference No. (ODPP/03/130/2011/01). This survey also revealed that out of 35 City, municipal and district councils, none of them complied with the public procurement procedures. Lack of procurement departments and employing professionals at very low grades were some of the main reason that stifled the function. Assuming that firms consider making procurement departments as cost-centres, the advantages of having these departments may outweigh the costs of establishing them (Lambsdorff, 2001). However, where extensive distortion of regulations exist, some chief executives may altogether ignore the procurement function hence maintaining the abusive status quo. Likewise, poor institutional conditions of service may also nurture non-compliance as employees devise means of earning a living. Nevertheless, the purpose of the PAT is so clear so much, so that agents are obliged to follow the regulations and failure to do so lead to warnings and penalties (Mwakibinga & Buvik, 2013)

Gregg (2001) and Quayle (1998) also observed that the status accorded to the procurement function is frequently determined by the image the function displays to the public. Unfortunately, most of the people, outside the procurement function, have a simplistic view of the function, and sometimes do disregard internal procurement performance measures as they view them as too technical. McColloch (2001) and Chinamulungu, (2014) further observed that unprofessionalism also occurs when the procurement function hires unqualified procurement professionals. This means that procurement officers must be skilful when dealing with complex issues in the procurement environment. They must also champion efficiency and effectiveness. They must also appreciate challenges that confront the function and try to identify the root causes. If procurement officers are not skilled enough, there will be need to give them right education ( Cousins, 1997; Cousin et.al., 2006; Cousins et. al., 1999 & Lamming et.al., 2000) to enable them deal with the challenges.

According to Mullins (1996), skills refer to the ability to perform certain behaviours, and perform cognitive processes that are related to a particular task. Mullins further observed that in procurement, finding dedicated and ethical employees with outstanding skills-set is always hard. While we do acknowledge that professionalism is key to institutional change, procurers and firms must be adequately theorised according to (Betts, 1993 & Hannagan, 1995).

Institutional challenges may also perpetrate procurement non-compliance. On this, De Boer and Telgen (1998) observed that financial policies have further complicated procurement non-compliance. They noted that public personnel mostly fail to behave professionally because they do not see the gains that come with compliance. Moreover, Telgen (1998) also observed that procurement officers who do act irresponsibly are usually not punished for their conducts. He also noted that many chief executives sometimes do purchase items and services illegally simply to exhaust their budgets in order to avoid reductions in the subsequent subventions. When these kinds of hasty purchases are done, they usually promote high non-compliance levels. What exactly happens is that monthly allocations are expected to be replenished, and if they are not, the department receive little or no funds from treasury. Sometimes, departments are forced to return the funds to treasury at the end of the fiscal year. Moreover, savings from competitive

procurement processes do not result into increased subventions in the preceding year; instead, the subsequent subvention is reduced. This means, institutions are in some way penalised for acting prudently. This then could also be the reason; many institutions do not see the value of compliance. This aside, familiarity with public procurement procedures, benefits the firms by avoiding sanctions that are imposed for non-compliance. This means reduction of the subvention due to compliance is not really a punishment, but rather appreciation. After all, when organisations do not comply with the PPPs, they are usually punished through sanctions and trimmed funding and this has a negative connotation than in the latter instance. Table 2.1 below is a summary of factors that contribute to lack of compliance.

Table 2.1 Factors contributing to lack of procurement compliance

	<b>Factor</b>	<b>Effect</b>	<b>References</b>
1	Familiarity with rules	Non-compliance to PPPs	Gelderman, et.al, (2006)
2	Perceived inefficiency of PPPs	Noncompliance with procurement regulations	Gelderman, et.al, (2006) Bor, et.al, (2015)
3	Organisational incentives	Monthly allocation reduced	Gelderman, et.al, (2006)
4	Supplier resistance	Bidders fail to understand PPPs Bidders submit tenders failing tenders	Gelderman, et.al, (2006) Bor, et.al, (2014)
5	Lack of professionalism	Non-compliance with PPPs Loss of financial resources. Loss of public trust and Suspicious transactions	Gelderman, et.al, (2006) Eyes & Oluka (2011) Obanda (2010) Mangulama (2008)
6	Institutional factors	Loss of money through failure to transfer money saved in the preceding month	Telgen (1998)
7	Bureaucracy	PPPs involve a lot of paperwork. PPPs are time consuming. Bidding is costly.	Bovis, (2005)
8	Poor alignment of the procurement functions	Not involved in making decisions about procurements. Late delivery of services and goods that affects planning. Strategic roles of procurement are bundled together with operational issues.	Obanda (2010)
9	Procurement structure at lower level of the organogram	Not consulted on major issues of procurement	O’neil & Cammack (2010)



### 2.3.3 Effects of non-compliance

In Malawi, the following legal instruments regulate procurement in the public sector:

- The PPA (2003). This is the main legal instrument, which was enacted by the Malawi Parliament of 13<sup>th</sup> June 2003.
- Public Procurement Procedures (PPPs) (2004). This is a by-law of the PPA. The ODPP enacted this By-law in 2004.
- Desk Instructions for Public Procurement Manual (2004). This is a manual that guides procurement professionals in their operations.
- Standard Bidding Documents (SBDs). These are issued out to bidders whenever procurements are to be made. They range from RFQ's, RFI, NCB, and ICB.
- By-laws through circulars from the ODPP.
- Donor procurement guidelines: These apply where the donor wants to use specific procurement regulations. The African Development Bank, (AfDB), the World Bank, UNDP, IMF and other banks provide guidelines for their funds. Sometimes, we call these attached strings.

The instruments listed above do provide detailed procurement processes that subject all stakeholders to fair treatment during the procurement processes (Paul, 2002). After all, public procurement is all about following correct procedures (Mwakibinga, F. A. & Buvil, 2013 and Eyaa, & Oluka, 2011). This must be done to maximise economic values.

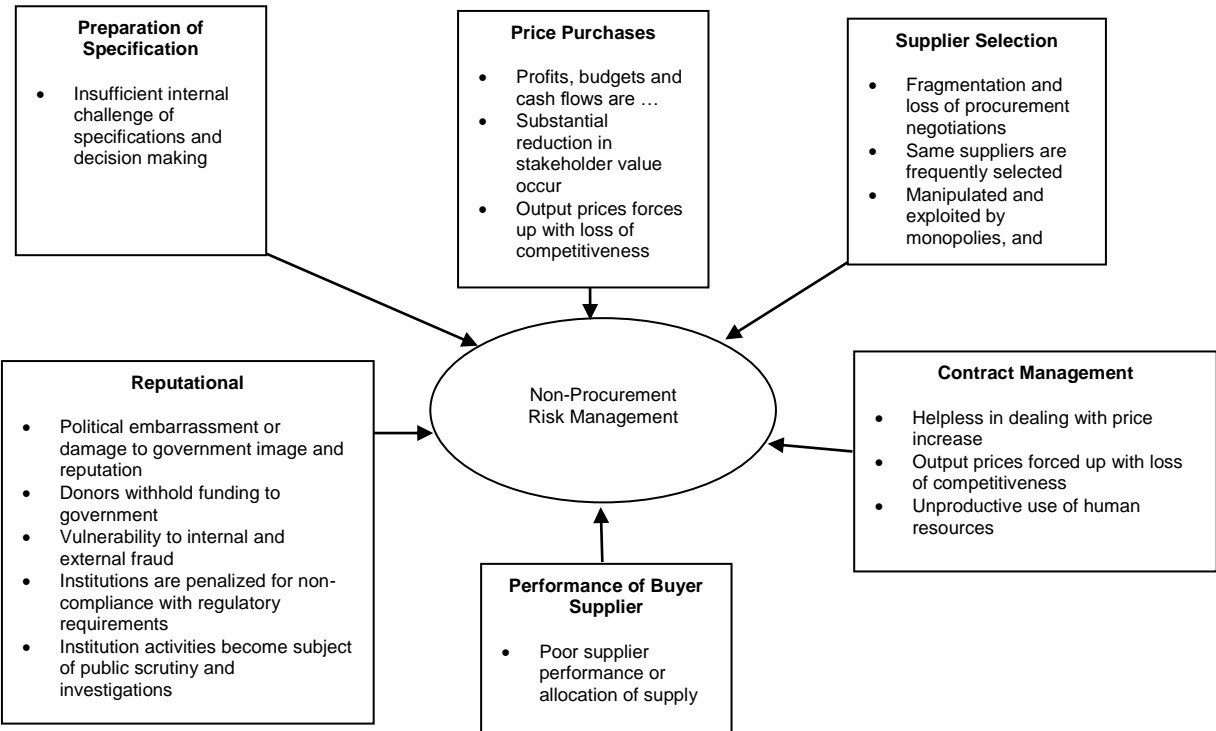
Whether economical savings are relevant or not, the issue is that the way these savings are rewarded is usually subjective in the sense that such rewards are prone to alternative interpretations. This is probably another area that calls for further investigations. That aside, the concept of public procurement value (PPV) does provide a useful way of thinking about the goals and performance of public policy and its means of delivery. The key issues for assessing public procurement values are equity, transparency, accountability and efficiency. These constitute important areas of values other than just economic savings (Emmitt, & Wright, 2011). When these are achieved, it means that economical values have been attained. What is critical therefore is the degree to which these values can be achieved given the diversity of the stakeholders. This diversity makes it difficult for all stakeholders to be satisfied with a single procurement process and value unless multiple reviews on values are undertaken. What is also generally agreed is that systematic procurement processes are a means of attaining real values in public procurement, and these must be dog-followed.

Russil (2010) argued that ignoring these steps risks disruptions in the supply chain and be the recipe for economic consequences. In Malawi, there are serious economic losses due to non-compliance with procurement regulations. Ng'ambi (2006) cited the loss of MK187 million (USD1million) by the MoEST in the Field-York scandal. This happened between 1994 and 2004 when some officers deliberately used bad procurement procedures in sourcing educational materials. The award of contracts for the supply and delivery of goods was made with

insufficient attention to detail. In extreme cases, huge sums of money were spent without any written contracts resulting into contracting the most expensive bidders. Relative to this, Kashoti (2006) also observed that due to mis-procurement, MoEST awarded a contract at 400% higher than the market price. Similarly, the Malawi Housing Corporation, Malawi Parliament, Petroleum Control Commission and Lilongwe City Council also awarded bad contracts to firms due to noncompliance and this led to loss of huge sums of taxpayers’ money (Joseph, 2006).

While PPPs are seen by many as inflexible and time consuming, it is the necessary evil to do public procurement without the detailed set procedures as fraud and corruption would not be controlled (Emmett & Wright, 2011). It is unavoidable, because, the rigorous processes that is followed makes sure that transparency is assured. Otherwise, the MoEST, MHC and the other fraudulent cases could have been avoided at an early stage. It is however important to identify factors that would reduce non-compliance in public procurement. From these findings figure 2.2 has been developed and summarises the risks that are associated with non-compliant behaviours.

**Figure 2.2 Summary of risks on non-procurement risk management**



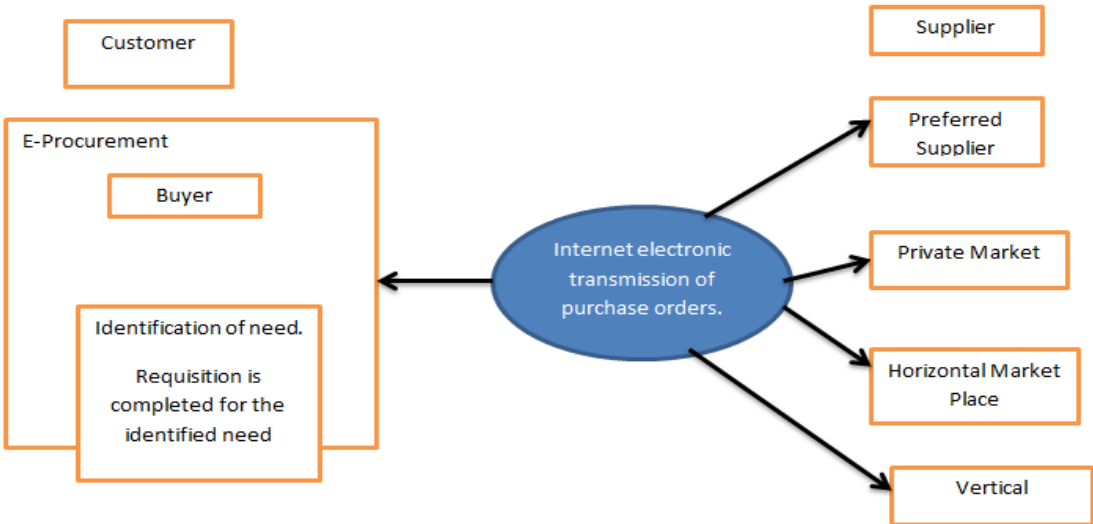
**Source: Author**

**2.3.4 E–business as a tool for enhancement of compliance with public procurement**

According to Bovis, (2005) electronic systems in public procurement are still being developed. However, Bovis (2005) appreciated that such system is important as they help increase competition and streamline public procuring, in terms of saving time and money. Procuring entities thus make use of electronic procurement techniques provided that such use complies with the PPPs. While the procuring entities may benefit from such systems, Bovis, (2005) observed that they are still underdeveloped and not really ideal for public procurement at the moment. Their use is also relegated to low value purchases than the high value ones.

Electronic business generally refers to commercial transactions that are based on the processing and transmission of digitised data (Emmett & Wright, 2011). However, Guinipero, et.al, (2012) defined e-procurement as the use of the internet to requisition, authorise, order, receipt and pay for the required services and goods.

**Figure 2.3 Procurement processes with e-enabled systems**



*Source: Vedanthachari (2007).*

Vedanthachari (2007) and Emmett & Wright (2011) observed that e-procurement provides significant returns on investment for many organisations and saves a lot of time. With e-procurement now available on the internet, many public organisations are evaluating the available solutions for the first time and trying to assess the scale of benefits they will get from the process.

The e-business technologies such as EDI, internet and faxes can be used for execution of procurement. However, the adoption of the internet as a medium has changed everything (Joyce, 2006). With a network that is instantaneously available worldwide that is, inexpensive, accessible and user-friendly, procurement has been simplified. E-procurement therefore includes a range of technologies that apply the speed and uniformity of computer processing, and the connectivity with the internet to accelerate and streamline the processes of identifying and selecting suppliers of goods and services; placing and receiving orders, and paying for procurements.

E-procurement encourages procurement and provider visibility and collaboration that move towards the ultimate organisational goals of supply-chain management excellence. Good e-procurement also requires a strong sense of collaboration that helps both sides to prosper.

Despite these benefits, (Vedanthachari, 2007 and Nyasulu, 2006) observed that most enterprises have not yet fully adopted e-business for various reasons. For instance, both scholars observed that high cost of e-procurement software in most instances cannot be justified; making it unaffordable for most African countries. Since the cash outlays are very nominal, Malawi and other countries cannot afford to invest in such infrastructure. While it is easy to use the internet, studies reveal that most people in the sub-Sahara Africa are computer illiterate and digital non-

natives. Besides, best value is difficult to assess with the use of e-procurement. In short, it is used only on the procurement of routine items, which tend to have simple specifications.

Nevertheless, the following are some of the benefits E-Systems can bring in public procurement in Malawi:

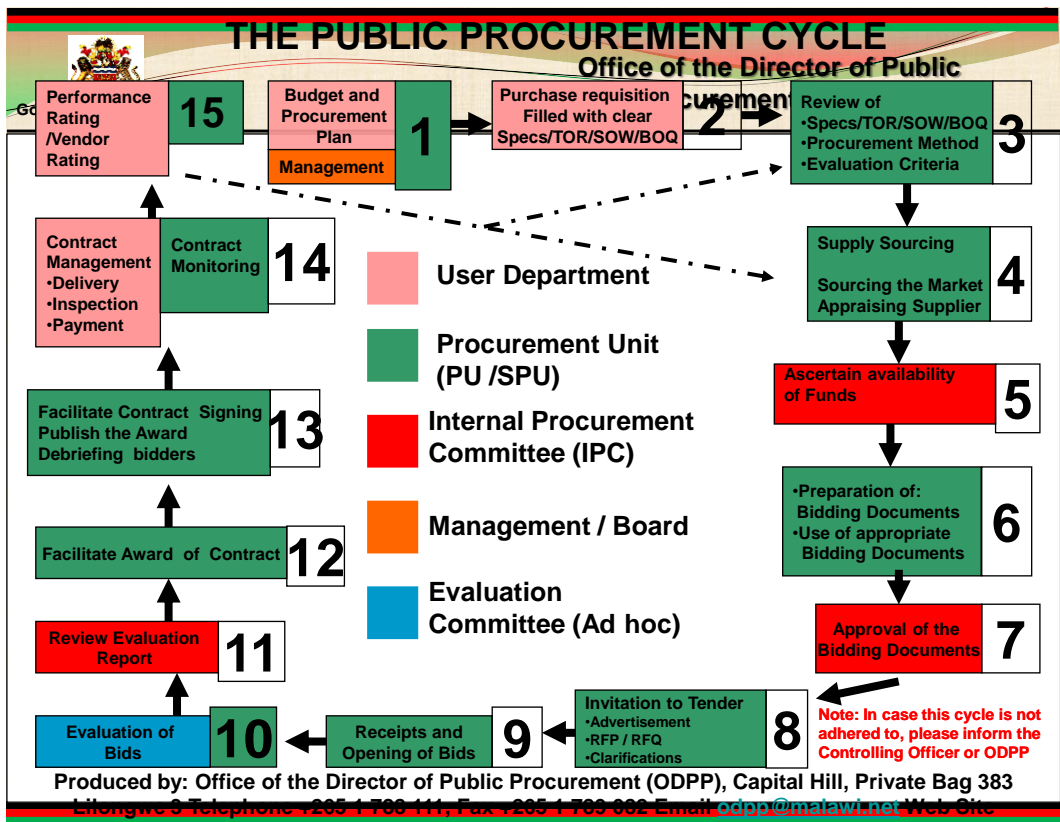
- Record keeping for purchases is improved.
- Delivery of information is improved. Before the internet, ordinary mail could take one week or more to despatch for approval.
- Compliance level is improved hence eccentric buying is reduced.
- Loss of information is reduced.
- Reduced paperwork and duplication of records is avoided thereby responding positively to environmental calls. Many African countries have not really tried to exploit and utilise this system given the issues already raised about poor infrastructure development on ICT.

### **2.3.5 How meaningful involvement of procurement function can enhance compliance level with the PPPs**

The role of procurement professionals is rapidly changing. While in the past, procurement professionals' responsibility was clearly relegated to efficient processing of purchase orders, the pace of today's business environment has expanded that role to control of the entire sourcing and acquisition processes (Gadde & Hakansson, 2002). Likewise, Vedanthachari (2007) explained that strategic procurement activities include maintenance of supplier relationship, quality control and other strategic activities of purchasing. This paradigm shift in activities has involved both the private and public sectors (Saunders, 1997). The concept of PPPs consists of specifications of goods and services; planning of procurements, selection of suppliers, and administration of contracts (Arrow Smith, 2010). According to the PPPs (2004), the process starts with identification of need, planning of procurement, definition of requirements, determining source, evaluation and selection of supplier, award of contract, implementation of contract, receipt and storage of supplies, payment for supplies and finally disposal of goods (Sebastian & Davison, 2011). The steps of the procurement processes and all the associated components of the procurement function can be explained as shown in figure 2.4 below.

Figure 2.4: Shows the steps of procurement process used by the Malawi Government

THE IDEAL PROCUREMENT CYCLE



Source: The ODPP Malawi

It can be seen from figure 2 above that the procurement function has complicated roles as it involves multiple stakeholders in the Central and Local Governments. In Malawi, the structure of public procurement in Local Government separates the roles and responsibilities of the different stakeholders. There is need for thorough examinations of specific roles that can help reduce grey areas that create conflict of interest.

Detailed analyses of figure 2 above is as follows:

**Step 1:** In Malawi, procurement planning is part of the traditional planning in the Local Government, notably, development and budgeting. The mandate of planning is derived from Regulation 23 to 26 of the PPA, (2003). User departments must prepare an annual work-plan for procurement based on the approved budget submitted to the PU to facilitate orderly execution of annual procurement activities. Procurement plan should be integrated into annual sector expenditure programme to enhance financial predictability, accounting and control over procurement budgets. The PU must then use the combined work-plan, organise, forecasts and schedule the procuring entity's procurement activities for the financial year. The combined work-plan must then include detailed activities of works, services or supplies to be procured; schedule of procurement requirements logically; a statement of required resources supported by a schedule of projected funding; a plan of likely method of procurement and likely time required for each procurement cycle. Although many stakeholders are important at these preliminary stages, procurement as the implementing agency, finance as the paying agency and head of institution are central to an agency's management of the procurement programme (Section 9 of PPA, 2003). Surprisingly, this is an area where most procuring entities do not comply. Most local councils do

not have the capacity to undertake such processes particularly because the personnel at procurement unit are employed at clerical levels (O'Neil & Cammack, 2014).

**Step 2:** The user departments are responsible for initiating procurement requirements and preparing of technical specifications of their requirements. It is also the responsibility of user departments to solicit the necessary approvals from the budget authorities to justify availability of funds (Regulation 28 of Malawi Government Public Procurement). However, O'Neil & Cammack, (2014) observed that this provision is not followed by some councils. End-users are responsible for initiating procurement and solicitation of bids. There is a risk of acquiring wrong materials, which may not be detected if users combine as requisitioners and buyers.

**Steps 3 & 4:** The procurement departments are responsible for review of the technical specifications, bills of quantities (BOQs/SOW and terms of references (TORs) to make sure that user departments developed them according to standards. For suppliers to deliver quality materials, it depends on how accurate the specifications are. Ambiguous specifications result into wrong materials being delivered. Once the issues of specifications are resolved, the procurement departments choose procurement methods to realise the procurement (S30 of PPA). Supplier qualification and evaluation criteria are also developed based on the complexities of the subject. However, the biggest risk at this stage is that requirements are not adequately defined (Basheka, 2008). Furthermore, Schiele (2009) argued that another important risk is lack of meaningful involvement of procurement professionals in developing the TORs. He defined meaningful involvement as the procurement department performing higher order activities, such as meeting with client departments to discuss their needs, providing information not originally requested by the client department in order to facilitate the processes, or carrying out any other kind of activity focused on the client department's needs in a manner that exceeds documentary involvement.

**Step 5:** Ascertaining of availability of funds to pay for each procurement is one of the responsibilities of the IPC S8 of PPA. The essence of the provision is to make sure that all procurements are made by the procuring entity. Once the suppliers have delivered the goods, they must be paid. Unfortunately, so many suppliers are never paid for years by the local councils (SGS Report, 2010/11) despite ascertaining the availability of funds. This step therefore is also not followed by the councils.

**Steps 6, 7 & 8:** The IPC is responsible for reviewing reports including evaluation of the reports from the procurement department. At institutional level, the IPC has the oversight role, and it can reject the procurement if it has flouted the procedures. It is the responsibility of procurement function and user-departments to inspect the goods and receive them once the IPC has approved the transaction (Reg. 18). However, most stakeholders do not understand step 8 such that advertisements for tenders are not given the minimum statutory requirement of 30 days wherein open tenders are a preferred means of realising a requirement. The situation is even worse in procurements realised by means of request for quotations. User departments traditionally are fond of filing their requirements to procurement department with quotations not solicited using

standard bidding documents (SGS Report, 2011 & Bovis, 2005). This contravenes Reg. 22 of the Malawi Government. This is another step-in procurement process that is highly risky as it contravenes the dictates of the PPA.

**Steps 9 & 10:** An effective supplier selection process is very important to the success of any contract administration. The main objective of supplier selection process is to reduce procurement risks, maximise overall value to the purchaser and to develop long-term relationships between buyers and suppliers (Pal, et.al, 2013 & Luitezen, et.al, 2000). Section nine of the PPA, mandates the head of procuring department to champion the processes of bid opening and bid evaluation. Proper bid evaluation ensures that:

- Competition is fair and that all bidders have an equal opportunity of winning government funded contracts.
- The goods and services procured under the contract are of appropriate quality based on the pre-defined specifications issued to all prospective suppliers.
- The procuring entity gets the best possible value for money.

Obanda (2010) argued that creating a transparent and credible procedure for supplier selection during evaluation of bids that explicitly take into account relationships and other factors regardless of whether such factors reflect professional practice, is not straightforward. Obanda's assumptions were reinforced by the (SGS Report, 2011) that said that most evaluations on procurements were able to recognise relevance, and considered more than criteria for evaluation of bids. However, in practice, they often selected suppliers primarily based on costs due to the difficulty to integrate the relevant criteria in the decision-making process. This remains the main challenge in the procurement cycle.

**Step 11:** Section 8 (3c) of the PPA states that one of the functions of the IPC is to examine, evaluate, compare and select successful bidders. The basis of IPC examination, evaluation and comparison is the evaluation report prepared by the procurement function. The IPC, upon reviewing the report, has the powers to approve, amend or reject it based on their findings. According to the SGS Report (2011), almost all the procurements sampled for the audit that IPC approved were not compliant with the qualification and evaluation criteria in the bidding documents. These procurements were then deemed bad. Considering that the chief executives, procurement officers and finance officers were key brokers of IPC in this specific procurement agency, it follows therefore that they might have some deficiencies in understanding of the PPPs (Gelderman, 2006). According to Gelderman, lack of professionalism, unfamiliarity with procedures, institutional arrangement and corruption were among the main causes of non-compliance in the Netherlands, a situation likened to the Malawi case.

**Step 12&13:** Section 22 of the PPA states that procuring entities are responsible for the administration of procurement contracts into which they enter. To this end, procuring entities must establish procedures for contract administration and provide necessary materials and human resources. This step may seem to be subtle, but it is important, as there is no good contract until

proper award procedures such as “Notice of Contract Award” are followed. The contract award notice constitutes legal acceptance of the offer from the bidders. It is important therefore that the contract is completed accurately. This step involves contract-signing, publication of the names of the winning suppliers in the papers, debriefing the unsuccessful bidders and release of bid securities where necessary. However, there are challenges of differences in contract interpretation and failure to agree on some of the provisions of the contract by both internal and external stakeholders (Sebastian, & Davison, 2011). Many contracts are also signed beyond the bid validity period. The bid security bonds are not released on time after contract signing (SGS, 2011). This might show the fact that there is inadequate skills in the development of the contracts and their administration.

**Step 14:** Section 22 of the PPA states that procuring entities are responsible for the administration of procurement contracts into which they enter. Thus, procuring entities shall establish procedures for contract administration and provide necessary material and human resources. Contract management is an important activity that covers all the activities performed by the procuring entity and bidders upon signing contracts until full discharge of the obligations. It involves delivery of goods and services by suppliers, inspection of the same to make sure that there is compliance with specifications, acceptance or rejection of deliveries and finally pay the supplies. Regulation 127 of the PPA defined the manner in which the contracts are supposed to be administered. It is a requirement that procuring entities are responsible for the effective management of any procurement contracts undertaken in accordance with the terms and conditions of the contract. Despite the legal requirement, the SGS Report identified several weaknesses in contracts management and its practices in the public procurement. These weaknesses included improper contract signing, signing contracts that were different from the ones advertised, lack of proper contract information, and inadequate and vague specifications. Moreover, liquidated damages were not applied in case of delayed deliveries. Based on these, this step was identified as a risk area in the effective management of public funds.

**Step 15:** This is the last step and is post contract. According to Erridge (1995) vendor rating needs to be carried out systematically. The process needs to be carried out based on the evaluative criteria on which the suppliers were assessed. Normally, the standard information for rating the suppliers may include defects experienced during contract performance and quality issues, performance to specifications, returns from customers, how often supplier demanded price changes, how competitive was the supplier during contract administration, how timely was the supplier in delivering the goods, how accurate were the deliveries, and how accurate were the delivery notes. The user-departments are well placed to give feedback about the performance of the deliveries. The rating of the suppliers is based on the records that were kept on procurement files. Section 27(1) of the PPA states that a procuring entity shall maintain records of, and preserve documents of the procurement proceedings, including originals of the bids received. Section 27(2) of the documentation referred to in (1) shall be maintained for a period of five years from the date of decision to terminate the procurement action, the date of contract award, or the date of contract completion, whichever comes first. The audit carried out by the SGS revealed

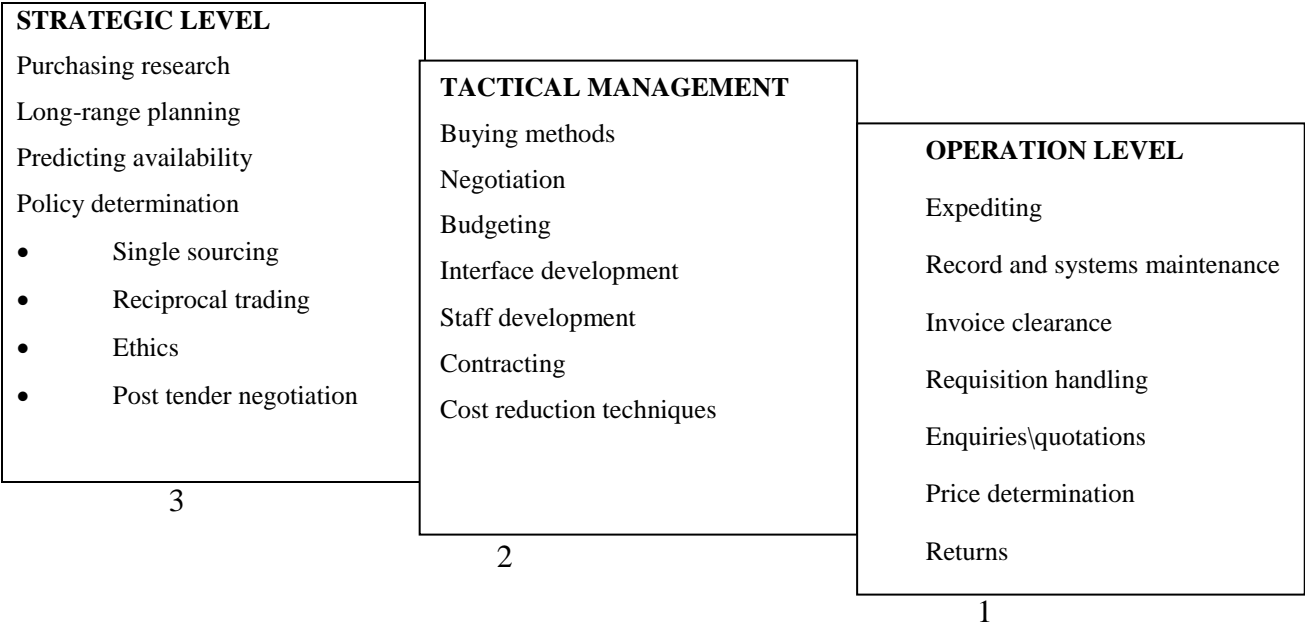


that most procuring entities were not able to keep procurement records on file. Failure to keep such records made auditors fail to conduct their review and were deemed risky entities.

The public procurement cycle in the Central and Local Governments in Malawi delineates broadly the roles and responsibilities of the stakeholders. The examinations of the specific roles and responsibilities in the cycle showed that adhering to these roles and responsibilities were problematic and that they led to loss of resources. There is thus need to corroborate the pre-requisite knowledge and necessary skills to conduct the designated duties in the cycle (Obanda, 2010 & Vann, 2011)

The PPA thus provided for separation of powers at various stages of supplier selection. While the examination of the procurement cycle revealed that the procurement function is very crucial in procurements, it is still at lower level of management structure (Vann, 2011). Vann also argued that just as the programme officer is as good as the controlling officers’ are; so are the procurement officers and finance officers. Procurement has also become more important in the public sector because resources have become scarce. Since financial resources are rapidly diminishing, those managing the purchasing function must be fully equipped with adequate knowledge and skills in public procurement. Knowledge and skills in public procurement management will accordingly help in the selection of suppliers, preparation of contract documents and general administration of the contracts (Paulraj, 2006 & Baily, 2008). Figure 2.5 summarises the scope of procurement function, and its relationship to the procurement cycle as discussed above.

**Figure 2.5:** *The Scope of the procurement function*



Source: Bailey, et.al (2008)

A proactive procurement operation can give the organisation it represents a competitive advantage by reducing wastage. However, purchasing strategies cannot be developed in isolation, as they need to be integrated into the organisation’s corporate strategy. Figure 2.5 above showed the involvement of purchasing authorities at strategic, tactical and operational levels.

Historically, the functions of marketing, finance, human resources and production have tended to dominate organisations at strategic levels. Today, many organisations have their procurement function at strategic level having gone through the operational and tactical stages (Baily, et. al. 2008; Dobler & Burt, 1996; Gadde & Hakansson, 2002; and Wagner & Kaufmann, 2004). One important thing to consider is that some organisations may be at level one; others maybe at level 2, while others may be at level 3 as their maturation points.

**2.4 The Role of Procurement function in supplier selection process**

Baily, et.al, (2008) asserted that buying price has probably been the factor most often associated with procurement responsibilities. The procurement function has an important role in judging the correct price for any purchase based on the type of materials to be acquired.

This philosophy of selecting a supplier based on price alone was founded on the traditional regime where buying was not considered as a profession, and was done by those that disregarded value addition (Msaka, 2009). However, the Chartered Institute of Purchasing and Supply (CIPS) noted that a modern procurement professional would not consider price alone whenever selecting a supplier but rather total cost of ownership (Bor, et.al, 2015). Below is the assumed equation:

Total cost of ownership

=

Purchase price

+

Cost of acquisition

+

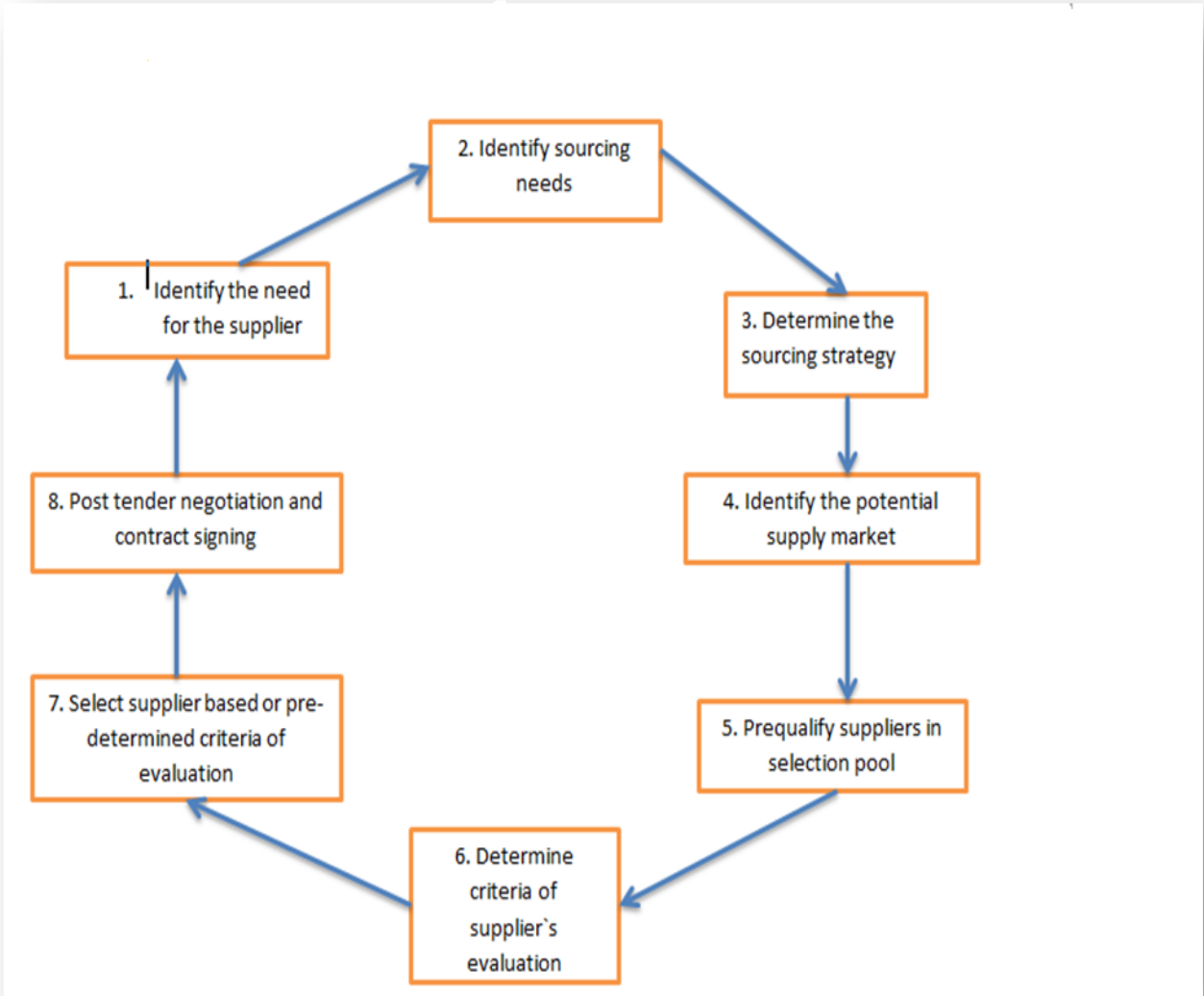
Cost of operation

+

Cost of disposal

The procurement professional should be able to assess which of these costs are important. For example, the purchase price may be the sole consideration for high volume components for a product line, but all costs will be important for major capital purchases. However, the role of procurement in businesses must be emphasised by considering the total acquisition costs of goods as well as the specifications being purchased. Figure 2.6 shows supplier selection cycle.

Figure 2.6 Supplier selection cycle



Author: Obanda (2010)

The purchasing function procures different items and the process used in completing total transactions may vary significantly (PPA, 2003; S31). Nevertheless, (Dobler & Burt, 1996) argued that the general cycle of activities when selecting the suppliers would fairly be standardised as shown in the above table. Table 2.2 below constitutes the typical steps followed in supplier selection.

**Table 2.2: Typical stages of supplier selection processes**

	<b>Leenders et.al., (2006)</b>	<b>Dobler &amp; Burt, (1996)</b>
1	Identification of need and description	Planning and problem definition
2	Identify sourcing requirements	Criteria formulation for selection of supplier
3	Determine sourcing strategy	Threshold is considered.
4	Identify the potential supply markets	Advertise tenders openly
5	Prequalify suppliers in selection process	Qualification of suitable suppliers
6	Determine criteria of supplier selection	Criteria formulation for supplier selection
7	Select supplier based on evaluation standards	Selection of suppliers
8	Post tender negotiation and contract administration	Contract signing

**2.4.1 The Importance of supplier selection phase**

**2.4.1.1 Need identification**

Leenders, et.al, (2006) stated that the first step in the procurement process starts with need identification by the user department. The organisation uses pre-determined levels of stocks in the procurement process. Need identification represents the stage at which the general problem to have goods and services procured is defined. Carter and Kirby (2006) defined procurement need as a specification. The recognition that a need exists for procurement function to solicit suppliers can come about in different forms. However, for this study, we consider the following:

- a) Due to poor internal or external supplier performance.
- b) When previous contract has been performed and terminated.
- c) When buying non-recurrent equipment.
- d) When internal users submit requisition for procurements
- e) When consolidating a number of requisitions.
- f) When considering outsourcing of a particular unit of organisation etc.

Specifications are the life-blood of good supplier selection for procurement function. However, Dobler & Burt (1996) observed that, procurers are faced with different procurement situations that lead to different decisions. What is critical is to make the right decisions on the choice of the suppliers. To make the right decisions, the process should start with finding out what the organisation really needs.

Generally, the private sector has a wider choice of decision tools unlike the public sector. The main tools that can be used for evaluating suppliers leading to the selection of the most appropriate ones are quantitative tools, where weights ranging from 1% to 100% are used, and qualitative ones, where yes or no questions are used for a particular selection criterion. The public

sectors, in many countries, are encouraged to use the qualitative tools because of their simplistic nature, which result in objective decisions.

**2.4.1.2 Functions of specification**

Lonegan (2003) and Carter and Kirby (2006) explained that specifications are a statement of attributes of a product, services and or works. A specification should describe how a need might be satisfied. In some cases, there will be only one-way of satisfying the need; while in other cases, there will be many. To avoid complications, users must describe their needs rather than a solution to their problem. In trying to develop specifications, the buyer may wish to specify inputs, methods, outputs and even outcomes expected as summarised in table 2.3 below.

**Table 2.3: Functions of specifications**

<b>Inputs</b> what is needed	<b>Methods</b> How it should be done	<b>Outputs</b> Targets, user expectations	<b>Outcomes</b> Ultimate benefits to buying organisation
Manpower Materials Equipment Skills	Who does what? What procedures?	Targets, Performance User benefits	Reduced costs, Improved effectiveness, Greater competitiveness, Increase in customer satisfaction

**Source: Author**

Baily, et.al, (2008) argued that procurement and user-departments must work together and make decisions as to how best they can define a particular specification given the technical requirements and needs of the organisation.

**2.4.1.3 Importance of specification**

Leenders, et.al, (2006) analysed two main functions of specifications for adding value to the process of procurement as follows:

**Communication:** clear specifications facilitate communication between the procuring organisation, markets, users and procurers. The purpose of specifications is to clearly communicate the need to the suppliers. It is less likely that there will be disputes later between the buyer and the supplier if communication is good. Currently with the advent of outsourcing, there have been many problems when outsourcing services because of lack of clarity on what by outsourcing and the requisites of the services to be outsourced (Baily, et.al, 2008).

In comparison, clear specifications facilitate fair and accurate comparison of suppliers’ bids for contracts, because all bids are compared using the same benchmark (Carter & Kirby, 2006). Given these, it would be important to specify details of the service to be outsourced in terms of the expected performance when inviting potential suppliers. This way, suppliers will make relevant and focused bids.

#### **2.4.1.4 The role of procurement function in the specification process**

In some organisations, procurement plays a minor role in the specifications process. However, progressive firms should involve potential suppliers during the early stages of product development (Dobler & Burt, 1996). Such involvement prevents wastage, poor supplier performance, and excessive costs (Schiele, 2009). These problems can be minimised at this stage, as there is maximum objectivity and flexibility. This approach can also improve product and service reliability. Saunders (1997) also identified the factors below as the reasons procurement function should be involved at the design and specification stage.

#### **2.4.1.5 Technical and commercial aspects of purchases**

Even in highly technical purchases, such as specialised fire-fighting vehicles, issues such as maintenance cover, spare availability, warranty and user training do form part of the specifications. These are the issues the procurement function can help specify.

- Early supplier involvement can help identify potential supply problems. If users want items that are hard to find, it is more likely that there will be issues with the supply and quality of the items. Problems like these can be minimised at the specification stage.
- The greatest scope for cost reduction is at the design and specification stage: By ensuring that items are not over specified, it becomes easy to reduce the unwarranted cost. For many organisations, the cost of disposal of supplier packaging is high than any other issues. Rather than coping with the problem of disposing the packages, it would be wise to specify minimal packaging standards, and or recyclable packaging as early as possible.
- Quality from the customer's point of view involves more than technical aspect. When purchasing computer hardware, for example, the response time of the supplier to maintenance and service requests is very important for customer satisfaction. There is little point in having technically superior equipment if system failure takes a long to be resolved. Moreover, IT equipment goes with time and if supplies delay, there is a possibility that the time they get back to you, the item has become obsolete, and the software and hardware have been upgraded.

Cooper (2010) observed that the demand for cost cutting has recently surged due to recession, thereby increasing the importance of the procurement function. In addition, keeping positive relationships with the suppliers has been challenging for procurement professionals with limited access to cash-flow. As supplier bases increase, inefficiencies creep in forcing procurement teams to rationalise their supplier bases to reduce costs, improve agility, and demonstrate measurable benefits for the firms. Procurement officers have grappled with this issue for decades. Erridge (1995) observed that drawing specifications for procurement is useful as it facilitates careful consideration of the needs and alternatives for satisfying them. This can lead to cost saving and quality controls. Even where the procurement function has little technical knowledge of the items, it should be able to question the specifications to ensure that value for money and security of the supply are achieved. The procurement function should therefore be able to guide user departments at the specification stage on how to come up with accurate specifications. This reduces disputes between the suppliers, buyers and the users.

2.4.1.6 Criteria for selecting the suppliers

This phase constitutes extensions to the importance of specifying requirements. The specified procurements after being fully assessed will help determine the procurement methods to be used depending on monetary threshold and value (Lewis, 2008). Bovis (2005) added that in order for the suppliers to qualify for the contract, there is need for them to meet the following requirements:

- a) Legal
- b) Technical and
- c) Economical

Contracting authorities must therefore adhere to the specified selection criteria before selecting individual suppliers. This is however more common in public procurements than in private ones. Table 2.4 below analyses the differences between the selection of suppliers in the public and private sectors.

Table 2.4: Public sector procurement and private sector procurements

Public sector	Private sector
Delivers services to the population	Supply the business entity with inputs.
Needs to meet social and political objectives besides the economy	Strives for efficiency and quality: relates to the firms profit and value proposition
Avoids being locked in relationship while seeking competition	Seeks stable, long-term relationships with the buyers and sellers
Often acts as an agent, buying for others	Attempts to balance prices, quality and flexibility of rules
Considers full compliance with the rules, exact terms of contract and accountability	Owner of the firm dictates terms of conditions based on the situation
<b>Financial accountability</b> Keeps strict control on budgetary obligations and expenditures	<b>Financial accountability</b> Observes basic business audit standards
<b>Transparency</b> Buys openly under scrutiny of elected officials and the press. Transparency is part of democracy.	<b>Transparency</b> Buys in “closed” situation of the firm and answers corporate officers only.

Source: Thompson, (2006)

As shown in table 2 above, Bovis (2005) suggested that everything government acquires is from either taxes or public investments. It can also be argued that government’s resources are obtained from its people. This is the reason governments must report to the owners of the resources regarding:

- How these resources are being utilised and
- What has been achieved from such resources.

Lewis (2008) also asserted that procurement in the public sector is so complicated and that Chief Procurement Officers (CPOs) are required to be well trained for them to be effective. For the CPOs to spot quality suppliers, they need to establish viable criteria for contract awarding (Schiele, 2009).

Furthermore, Erridge (1995) added that qualification criteria will enable the supplier to undergo an appraisal. The appraisal results then help the suppliers to get included on the approved list of suppliers. There will also be an opportunity for the suppliers to participate in supplier development activities, which enhances their status.

- The appraisal is done before the suppliers are awarded the contract, and it does:
  - Reduce the supplier base
  - Improve quality as the same suppliers are used
  - Reduce lead time
  - Enhance long-term relationships
  - Improve customers services and
  - Facilitate meaningful use of resources.

According to Erridge, the supplier appraisal methods will include the following:

- Checking of references
- Speaking with previous and current customers
- Third-party certification such as ISO 180 9000
- Testing of samples
- Analysing of trading accounts
- Questionnaires
- Physical visits to suppliers
- Audit of suppliers
- Analysis of product costing
- Analysis of management structures, staffing levels and administrative procedures
- Analysis of production and quality controls
- Analysis of financial viability and business performance.

Relative to this, Lewis (2008) observed that while most of the points listed above may provide objective quantitative measures, other qualitative factors such as `cultural fit` are also crucial when selecting suppliers. However, the Malawi Government through the PPA (2003) and PPR, (2004, Section 80-102) sets out comprehensive supplier qualification and bid evaluation procedures. While many other ways for assessing suppliers qualification for contracts do exist, city and town councils must simply follow all the rules as set by the Malawi Government. Ironically, the SGS Report (2011) established that councils in Malawi did not at all comply with most of the provisions of the PPA, (2003).

#### **2.4.1.7 Selection of suppliers for award of contract**

The decision tree consists one of the most important stage procurement function makes in an organisation (Leenders, et.al., 2006). The decision to award a contract to suppliers must be



based on legal procedures. The art of best procurement practices must therefore be rooted on sound and acceptable procedures (Bovis, 2005). Normally, the analysis of supplier's ability to meet satisfactory quality, quantity, delivery, and price of service and goods is governed by the decision tree. However, some of the important attributes of the selection criteria cannot be restricted to the appraisal list above.

To this end, the nature and amount of purchases will influence the weighting attached to each objective and hence the evidence needed to support the decision (Baily, et.al., 2008; Gadde & Hakansson, 2002 & Leenders, et.al., 2006). Selecting a particular supplier is the most important job for the professional procurers. If they do a shoddy job, the organisation will realise poor supplies, disruptions, and inefficiencies. Conversely, any job well done will give the organisation competitive edge, efficiency, and profits for years.

#### **2.4.1.8 The decision trees**

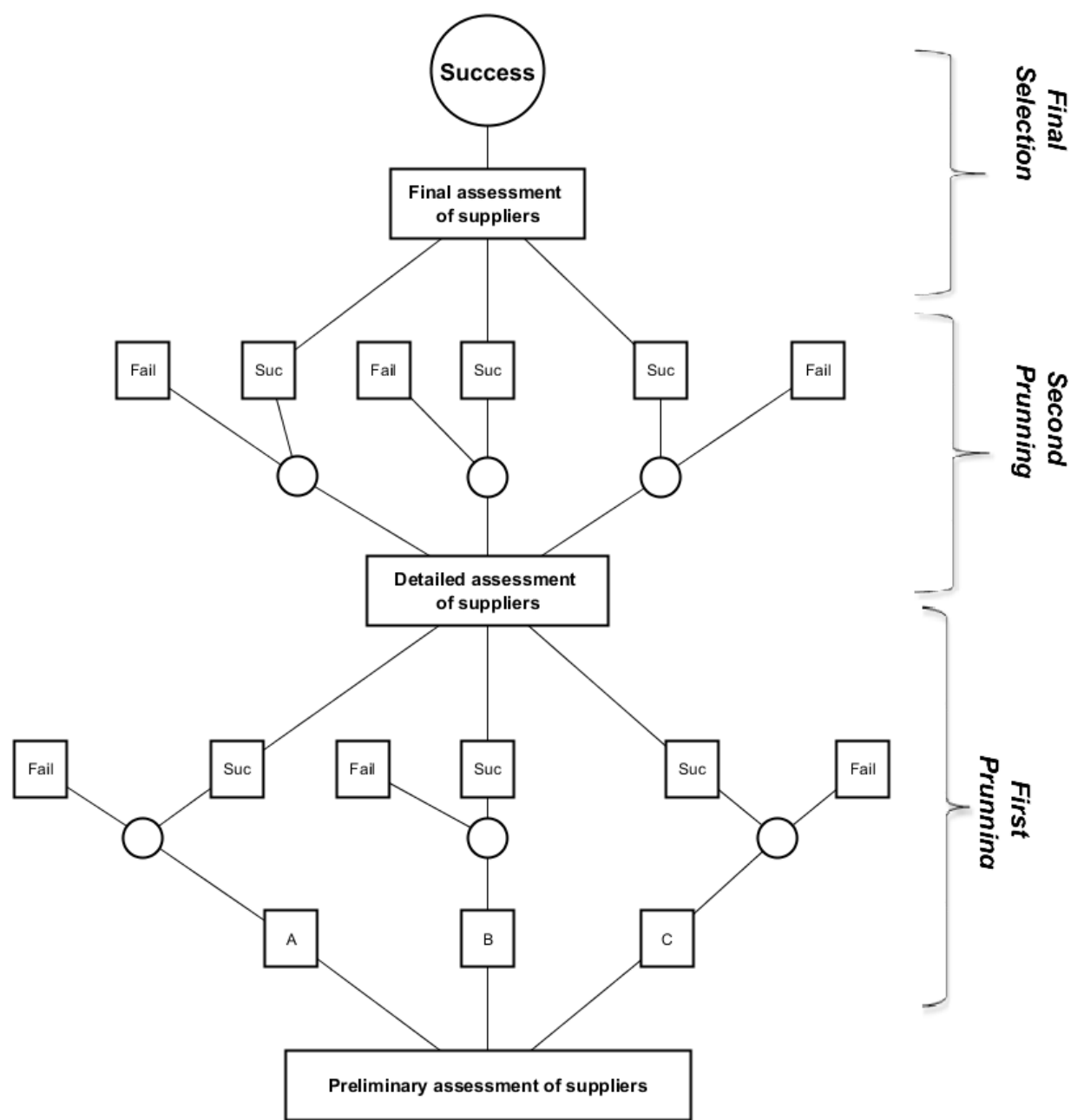
Lunney and Dominic (2012) contended that supplier selection criteria are attributes that a procurers value when transacting with the suppliers. In most purchases, the super supplier will need to have the most attractive characteristics. Even then, the more characteristics you require of the suppliers, the more complex the evaluation process becomes. This way, streamlining, starts with identification of supplier criteria appropriate for that situation. The PPA (2003) qualified the requirements for supplier evaluation as important and inclusive processes to enter into the procurement contract.

The PPA extended the evaluation criteria to include the following:

- Professional and technical qualification
- Legal capacity
- Financial resources and conditions
- Past performance, including legal disputes
- Debarment and
- Payment of taxes.

This kind of supplier selection includes evaluation exercise as a decision-making model. It is called 'decision tree' because of the way in which decisions are made in order to select the best from the rest.

Figure 2. 7: Simplified stages of the decision tree



Source: Author’s own tree diagram

This tree diagram is based on predetermined supplier selection criteria. The principle used to reach at the selected supplier is by pruning the branches of the tree dropping out all unsuccessful suppliers. After pruning, the supplier that meets all the selection criteria is the one to be chosen. In this process, the remaining trunk represents the winning supplier to be awarded the contract.

Briefly, the pruning process is based on the evaluation model carefully designed to yield the desired results. It thus follows predetermined criteria that seek to enhance the following:

- Fair and just treatment of all bidders
- Transparency and accountability when discharging procurement functions
- Economy, efficiency and effectiveness by achieving best results (value for money).

According to Kirby (2006), procurement professionals spot selection constraints, the unbreakable rules in the selection process and prune weak suppliers. When these constraints and criteria

identified, they arrange them logically in terms of their attributes. Since supplier offerings will differ, there will be trade-offs in the criteria. One may get a better price from some suppliers but if such suppliers insist on contract terms that are not favourable to you, you prune them. Thus creating a hierarchy of constraints and criteria in advance helps you remain focused on what you really want from the suppliers.

Erridge (1995) also observed that in most situations; the importance of each selection constraint and criteria are not equal. Therefore, constraints and criteria must be given different degrees of significance. These weights will come into play when comparing suppliers who have different strengths. Applying different weights to scores is referred to as using “weighted average scores”. The principle has enhanced high levels of compliance in the Netherlands and in most of the EU countries.

In weighted average scoring, Gattorna (2006) explained that each criterion is ranked in terms of importance and assigned a percentage such that when all percentages are added, they equal 100%. The more important criteria are assigned higher percentages while the less important ones are assigned lower percentages. These scores are then used in calculations that are part of a supplier scorecard (a tool used for comparing suppliers and their proposals when multiple criteria are involved).

#### **2.4.1.9 Weighted average scores against pass or fail evaluation method**

There is empirical evidence that one of the main responsibilities of the procurers is selection of suppliers. However, selection of the right supplier is one of the biggest decision-making problems (Brian, 1999). Selection of the right supplier can significantly reduce unnecessary costs associated with purchasing thereby enhancing corporate image and competitiveness, (Womack, et.al., 1990). Ferguson, et.al., (1996) also observed that increased participation of procurers particularly at strategic selection of suppliers for is an indication of the shift of the function from tactical and reactive purchasing to proactive “stance” becoming an important contributor to the success of the business enterprise. Likewise, Joyce (2007) complimented these views when she indicated that there are two salient viewpoints in the literature regarding this issue:

- The most important decision is undoubtedly selection and maintenance of close relationships with a few but reliable suppliers. The suppliers need to be of high-quality to reduce costs while maintaining quality products and excellent customer relations.
- There is a strong need for a systematic approach to procurement decision-making process when identifying and selecting suppliers.

This way, the purpose of supplier selection is to determine optional suppliers who can offer the best total cost of ownership (Erridge, 1995 & Leenders, et.al., 2006). According to Erridge and Leenders, et.al., (2006) the process of supplier selection can be objective if vendor appraisal, is done through use of weighted scores. The maximum percentage for these scores when added should range from 0% to 100% where 0% represents the worst result while 100% is the best. The weighted scores are called ‘raw scores’. Moreover, Cohen and Rousel (2005) further observed

that the use of scorecards helps organisations monitor and manage their business performance. To this end, the use of the following model is suggested:

**Table 2.5: Supplier bid scorecards**

Project title:	Supply of computers	CPO Review date	Dokiso C.	
Supplier, name			Nyasulu	
Total weighted score	0		20/07/2014	
Criteria				Criteria Weight
Cost and value	Evaluated items possible actual	comments	Weight	Score for
	point Scores		criteria	
	100%		45%	0
Cost & Value totals	100%	0	N/A	
Delivery	Evaluated items	Possible	Actual	
	Comments			
	Point	Scores	30%	0
Delivery totals	Delivery in 1 week 100	0	0	
	100	0	0	
Risk	Evaluated items	Possible	Actual	Comments
		Points	Score	25% 0
	Natural disaster .....	33	0	
	Financial health	33	0	
	Sole source not reliable	34	0	
Risk totals	100	0		
Scorecard totals			100%	0

The scorecard as an evaluation tool is simple to use. First, there is need to enter the suppliers’ name. Each supplier will always have to be provided with a separate scorecard sheet. The actual scores for each of the criteria should be entered. Finally, the scores for each criterion should be added, then the actual score for the criterion as on risk, then add those together to come up with the actual score of the criterion. In order to come up with weighted scores, the actual total scores for a criterion should be multiplied with applicable percentages.

In order to obtain a total weighted score, all the weighted scores for all criteria are added together. Using 100 as the maximum score for each criterion and 100% as the sum of all weights, the result will have a maximum value of 100. This process needs to be repeated until you have a completed all suppliers scorecards. If a criterion, weighting and scoring system is developed, the supplier with the highest total scores will be the most attractive one for the award of contract. Roussel and Cohen (2005) explained that criteria that are set in line with objectives of the organisations are likely to yield the results that would support the strategy.

However, despite the development of a scientific way for selecting best suppliers, still suppliers are selected by people not scorecards. There is a chance that there may be flaws in how the criteria, weighting or scorecards are developed. If there were, one would not want their organisation to be victimised by such flaws. Again, supplier selection is a critical decision and as such, one needs to get it right. However, Mchopa, (2015); Thiruchelvan and Tookey, (2011) argued that large numbers of attributes might also contribute to the complications of the assigned weights. Furthermore, the selection decision becomes difficult as the number of business rules and procedures that must be considered increases (Tahriri, et. al., 2008). Nevertheless, the application of common sense helps arrive at the best supplier selection. Ideally, the scorecards determine the best supplier. Even then, when this methodology is first implemented, there may be some issues users will encounter. Where a scorecard helps little, one has to override the outcome with common sense. The weighted method has also been exclusively explained in the PPR (2004) as the best means of reaching at the provider of consulting service (Reg.591-106). Scorecards are therefore some of the most reliable tools for procurement procedures. They help procurers come up with quality suppliers who have been selected objectively (Baily, 2008 & Gattorna, 2006).

#### **2.4.1.10 Use of “pass or fail” hurdles**

In some aspects of the requirements, a contracting entity may want to include a pass or fail hurdle on the evaluation process. It is very common in public institutions to use pass or fail when evaluating bids for award of contracts. The main argument for the use of the method has been its simplicity to use. Once the criteria are put in place at the time of bidding, it should not be difficult to pass or fail particular criterion that has not complied. Importantly, the criteria should be set in the tender documents demonstrating how such a hurdle will work. Alternatively, a scoring method can be used where only bids that score a specified minimum on clearly identified aspects would be considered for example using 0 to 5 scoring system. The procuring entity then specifies that only those bids that score a minimum of three in every requirement will be considered. This reduces the risk of a winner that scores poorly in other criteria to be considered for contract award (Brown, 2010). Likewise, Baily, et.al., (2008) and Dobler and Burt (1996) also observed that the weighted scores are important in supplier selection even though procurement professionals can sometimes overrule them if they are considered erratic. They nonetheless urged procurement professionals to be very ethical when discharging their duties. Changing weighting scores or other evaluation criteria just like manipulating components of the scorecard to justify a predetermined supplier selection are unethical. Additionally, Quayle (1998) observed that recently UK professional procurers have demonstrated positive skills on supplier selection. The efforts by UK procurement professionals benchmark the beginning of supplier selection process that can bolster organisation's efficiency, competitiveness and profitability. Indeed, having clear method for best supplier selection is mandatory in today's hostile business climate which calls for creativity and innovativeness (Baily, et.al. 2008). This means that senior managers must recognise the significance of every expenditure and its impact within the firm. This is the reason the procurement function is increasing gaining traction in today's business environments

(Schiele, 2009). According to Quayle (1998), the above factors have improved procurement decisions by:

- Enabling automated and quicker tabulation of decision-making information since supplier data can easily be found on suppliers' websites.
- Enabling efficient storage of procurement information in relation to decision.
- Making processes and information accessible to users for future references.
- Use of IT today has eliminated duplication on supplier evaluation and selection.
- Enabling efficient communication of the outcomes to management and suppliers.

A lot of literature on supplier selection, reveal that ensuring competitive tendering, transparency, accountability and fairness to all bidders leads to best supplier selection (Erridge, et.al., 1999; Erridge, 2007, Sarker & Hassan 2013). However, when some bidders are preparing bids, they include mark-up costs on the goods and services that push up the prices more than the original prices. If the process of open bidding were avoided, the prices of tendering could also be avoided. This is where procurement dilemmas come in. This then requires professional procurers to analyse the bids and establish exact costs impute all stakeholders can easily understand. Given these realities, the procurement function has become a significant entity on management agendas in the public sector. This means that the procurement function must justify the decision they make regarding evaluation of suppliers, methods used and their situational relevance (Bovis, 2005 & Foerstl, et.al., 2013).

Some literature recognises users as being knowledgeable in the designing of specifications that can be utilised by the procurement function for communicating with the supply market. Nevertheless, this assumption has often led to erratic and wrong selection of suppliers given that most of these users are not professional procurers and tend to have limited procurement knowledge and skills (Lysons & Farrington, 2006).

The last step of supplier appraisal is to select the supplier and conclude the contract that offers value for money (VFM) for all stakeholders (Ndandiko, 2014). Selection of suppliers alone does not mean conclusion of the contract, rather it simply begins the post tender negotiation (PTN) stage. This means contract awarding and or declining is based on the results of the PTN (Compton & Jessop, 2001). According to Dobler and Burt (1996), professional procurers are sole negotiators for the organisation. When the subject for negotiation is complicated, the procurers can lead a team of negotiators to resolve the problem before a contract is by the procurers and the suppliers.

According to Dobler and Burt, (1996); Lysons and Farrington, (2006) and Telgen, et.al., (2006), there are five steps in negotiation. Firstly, find out the facts about the suppliers, their products and services to be negotiated. Secondly, the negotiators should assess the strengths and weaknesses of the negotiators, and the procurers must lead team. Thirdly, the organisations must anticipate the consequences of none agreement with the suppliers. Normally, experienced negotiators will avoid bluffing and prejudice. Since conflict resolutions and negotiation have direct bearing on

compliance levels with the PPPs, this study considers this as one of the issues that necessitated our study. There is need for people to understand basic principles of procurement for them to comply. However, making one understand and comply may not really come from compulsion or antagonism. The final step concerns the buying teams' ability to set clear goals and objectives and how they will execute them. It seems Dobler and Burt's argument is based on the traditional adversarial (win-lose) approaches to conflict resolutions which do not usually work in some situations. It is thus critical for the negotiators to fully understand the objectives and goals of the negotiation and avoid antagonism as proposed by Dobler and Burt. After all tough negotiators do not really have to be egocentric and inflexible. Of course, in one-off purchase, you may use a win-lose tactic but long-term contracts may call for a win-win approach.

## **2.5 The concept of VFM in public procurement**

This study has revealed that determination of benefit in the city councils was more complicated because value was based on compliance with the objectives and goals of the "public" but not the procuring entities (Erridge, 2007). Although compliance is naturally bureaucratic, it is essential for democracy because it provides room for checks and balances. Transparency and accountability bring confidence on the taxpayers. The study has further revealed that VFM is understood as the procurement of goods and services at cost-effective prices. While low prices may constitute value addition, they do not categorically reflect desired stages of procurement as anticipated by the publics. This is the argument that guided this research since measurement of value was misunderstood by the city councils. This was also supported by the findings that compliance in the city councils failed due to ignorance on PPPs. This was similar to Uganda and Netherlands cases where PPPs were flouted due to ignorance and lack of penalties (Erridge, 2007; Gadde & Hakansson, 2002; & Gelderman 2006). Nonetheless, public procurement competence involves the understanding of both the static and dynamic efficiency in the delivery of items from the suppliers where value is usually contested. In the private sector, procurement and supply competency involve an understanding of both the static and dynamic efficiency in appropriation of value usually pinned in profit. Concisely, value addition is not only about lower prices but also about protection of public interests (Dimitri, 2013). Since the publics are the taxpayers, it is not surprising that procurement is complicated. Sometimes voters view procurement as against politics and political leaders. This is particularly true when we think that ruling parties bring money into the public fiduciary systems. Conversely, political interference in procurement often leads to illegal procurements (Basheka, 2008). Conversely, taxpayers are usually concerned with how their taxes are spent and the change they bring to their lives. Basheka (2008) further contended that procurers must be knowledgeable since they are entrusted with the management of councils resources. This knowledge helps protect taxpayers' money and its value. By adopting best practices, councils will reduce conflicts with the bidders, and payments of poor goods and services.

According to Basheka, the following activities are important for value addition: procurement planning and coordination; public bidding advertisement, bids opening; bids evaluation; and contract administration to make sure that what was specified is obtainable in time. These factors

assist procurers to be more coordinated, use integrated approach, build internal and external trust and help the councils achieve broader goals during procurements.

It can be argued that procurers achieve value addition by promoting open tendering system on all procurements exceeding certain thresholds (PPA, 2003). Open tendering process (OTP) provides the most effective means for achieving benefits while making the councils comply with the PPR, (2004). OTP since it is widely advertised in the media; it is able to reach the wider publics and promotes transparency. Since competition is wide, it nurtures openness and fairness (Dimitri, 2013). However, in the interest of VFM, the PPR, (2004) allows the ODPP to waive the provision of OTP under the following conditions:

- Restricted tender, when goods are found with limited number of suppliers known to the procuring entity; S30 (3a)
- When the time and cost for considering a large number of tenders is disproportionate to the VFM for the procurement S30 (3b)

This approach of managing PPPs provides:

- Feedback to the taxpayers on how their money is spent
- Equal opportunity to all prospective bidders
- Bidders an opportunity to quote the lowest possible prices owing to the fact that they are aware of the increased competition;
- Quality goods and services in good time.

The concept also takes into account the fact that PPPs are developed to balance a series of competing objectives such as VFM, and market development by ensuring fairness among the entire stakeholder. Thus, the procurement function managed by professionals has the capabilities to optimise value. The accrued value will then help diffuse the misunderstandings that exist between among the stakeholders. Based on the analysis of the literature, Table 2.6 below proposes the framework for public procurement benefit (PPAV).



**Table 2.6: Framework for PPAV**

Goal type	Value
<i>Regulatory goal</i> transparency and accountability	Conduct, behaviour, corporate governance requirements and PPPs are open and fair.
<i>Commercial goals</i> economy and efficiency	Reduction on costs, more purchases for the same price due to volume and trade discounts, same quality and quantity for less money
<i>Social economic goals</i> social welfare and public value	Equal treatment for all suppliers, protection of SMEs, trust development, accountability, and publicity is free for all.  Taxpayers know how their money is spent.

**Source: Author (2016)**

Integrating diverse objectives of PPPs need trained professionals in procurement who can effectively interpret the PPPs and align them with the framework (Mwabumba, 2011). Meeting the goals in the table above, helps regain VFM. In addition, procurers must strive to meet the provisions of the PPR, (2004) and the PPA (2003). Procurement entities must thus be able to:

- Avoid unnecessary costs and delays
- Monitor supply arrangement and co-create them once they stop being helpful
- Ensure continuous improvements for efficiency of internal processes and systems.

Competitive tendering process must be fair and inclusive. Competitive tendering also underpins contemporary markets and differs from the demand-supply driven markets. Pure competition aims to attain the “lowest prices” while competitive tendering aims to achieve the “lowest total cost of ownership”. To strike a balance in the “lowest total cost of ownership”, procurers balance prices offered by fellow bidders, the quality of goods offered and operational costs to be incurred during the life span of the procurements. It is thus, the responsibility of the adhoc evaluation committee and the IPC to ensure that VFM is achieved at all levels.

**2.6 Challenges faced by the procurement function**

The PPA (2003) number 8 regulates procurements. This law promotes fairness and transparency during public procurement. Like in Uganda, city councils in Malawi have been faced with several challenges. For instance, the Law in Section 9 and 10 requires that all procuring entities employ qualified experts to achieve its objectives. This assumed that experts would easily understand procurement issues and trends. However, the complex nature of the councils makes it hard for the procurers to discharge their functions (Kanyongolo, et.al., 2014). Against this background, emerged the decentralisation of public procurement in the Local Government (LG). This did not mean that the Local Government Act (1998) was not available. Rather, the then law placed procurement at the Secretariat of the LG and it was centralised. The reason for decentralizing

procurement was that it should provide more support to end-users, reduce bureaucracies, improve coordination, and empower departmental heads to buy what they really needed in time (Maoni, 2013 & Obanda, 2010). According to O'Neil and Cammack, (2014) despite these developments, procurement functions are still no way near Sections 9 and 10 of the PPA, (2003) which requires that the function be strategic, and play advisory role to management (Kanyongolo, 2013; Obanda, 2010; Basheka, 2008; Agaba & Shipman, 2015). Furthermore, the ODDP's mandate is still limited to recommendation, even though it has made significant strides in trying to mitigate the challenges that were common in the LG Secretariat. Likewise, the efforts by the ODPP have paid insignificantly.

There are also some studies that have identified the reasons that stifled compliance with PPPs at the LG and these are:

Nature of funding for some projects like the CDF and LDF. The CDF was initiated in 2000 when President Mutharika was faced with political resistance from the opposition MPs, who wanted to impeach him based on their numerical power. Desperately agitating for their support, Mutharika initiated the CDF to hood wink the MPs. Today, MPs get MK18 million per annum for their constituencies. This money is spent on projects identified by the MP at constituency level. Many MPs however, take this money as their own and spend it willy-nilly (O'Neil & Cammack, 2014) and spend them without following procurement Laws. O'Neil and Cammack, (2014) also added that CDF projects are used to harness votes from the electorate. The result is that the funds are abused by the MPs since they are not held accountable by any Law enforcement agencies.

On the other hand, LDF replaced the Malawi Social Action Fund (MASAF). The LDF basket receives much of its funding from donors. LDF aims to empower local communities to take part in the decision-making processes through improved local governance and development. This also seeks to reduce poverty and improve service delivery according to (O'Neil, T. et.al., 2014). Village development committees (VDCs) manage the projects and do all the buying. Unfortunately, VDCs lack technical capacity to manage these funds (Moyo, 2015). They also lack public procurement skills resulting into bad procurements and no VFM. Fraud and corruption are common of the VDCs (Thombozi, 2015).

### **2.6.1 Political interference**

Political interference is a big challenge in the councils. The councillors together with some MPs affect implementation of public procurement reforms in councils. They think that they have the right to interfere with the procurement processes without any penalties.

### **2.6.2 User departments interference**

The end-users play a very important role in procurement processes, and are key stakeholders. They are responsible for initiating procurements and prepare specifications of their requirements. At tender evaluation, end-users maybe consulted to mitigate errors in the supplies. As soon as the bidder is selected, the procurement department manages the administration of the contract. Since this is operational, it sometimes is easy to assign it to the end-users. Such an arrangement VFM as it increases compliance with technical specifications. However, this may mislead end-users into

assuming procurement roles. When users assume the role of procurers, they solicit bids and select suppliers thereby contravening the PPPs.

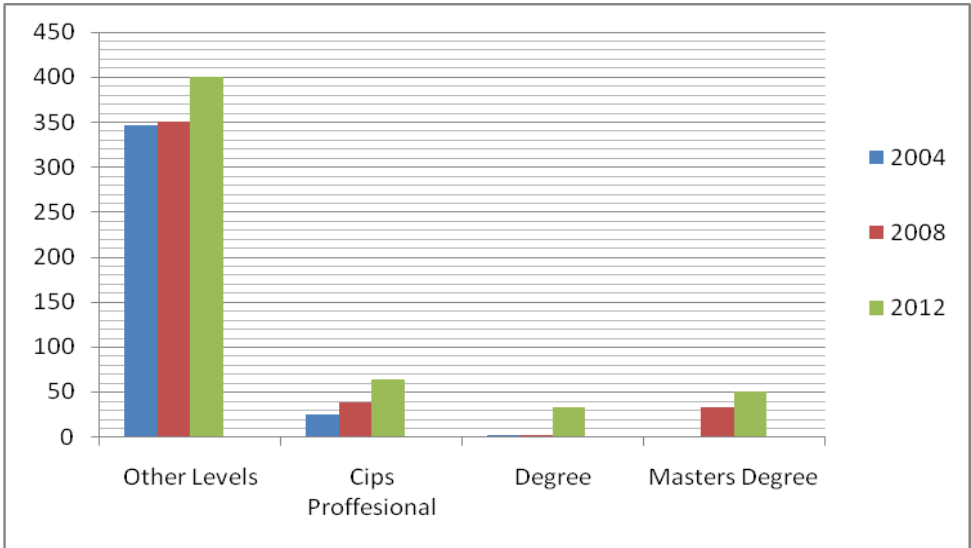
**2.6.3 Lack of capacity in procurement auditors**

One of the major mandates of the ODPP is to monitor compliance levels. I cases where violations of the law are discovered, they are supposed to be referred to the Auditor General and the ACB S5 (2e & h) of PPA (2003) for action. However, Malawi does not have enough qualified human resource to conduct procurement compliance audits (SGS, 2011). The SGS also observed that there was lack of technical knowledge among the ODPP staff hence not enough attention is paid to technical specifications during bid evaluation. The ODPP has 24 workers: 11 procurement professionals, a lawyer, two engineers, two HROs, two accountants, four registry officers and two IT officers. Procurement compliance and functions here revolves around the 11 professionals who are involved in PPPs trainings and compliance audits. However, there is high-rate of turnover among procurement professionals at the ODPP. Most of them have resigned for greener pastures elsewhere. Even then, meaningful procurement audits can enhance compliance levels and professionalism but this becomes possible when staffing levels are sufficient.

**2.6.4 Limited number of schools offering procurement courses**

Following the reforms in public procurement in Malawi, there was need for the country to have adequate procurement professionals. Since 2004, there has been a limited qualified procurement professional in Malawi. Most procurers hold certificates and diplomas from the CIPS. Much as the CIPS is the ultimate authority in procurement, it is high time Malawi Universities introduced degree programmes in procurement to fill the gaps. The Malawi Polytechnic has nonetheless courses in Logistics and Supply Chain but this is not really procurement. It produces nearly 25 graduates each year but even then, this figure is a far cry. Figure 2.8 presents the total number of procurement professions grouped according to their highest qualification as at the end of 2014. The information presented is based on annual membership records from CIPS, the ODPP and the Malawi Polytechnic.

**Figure 2.8. Changes in buyer education levels since 2004 – 2014**



*Source: Author*

### **2.6.5 Lack of procurement planning**

Procurement is a constitutional requirement for all procuring entities as S21 reads, “Procuring entities shall plan procurement with a view to achieving maximum VFM and other objectives set forth in this Act, and in accordance with the applicable budgetary procedures”. However, the ODPP (2011) report revealed that there was lack of procurement planning in the councils, which has affected compliance levels.

### **2.6.6 Lack of goodwill by top management**

Wide spread consensus has emerged in the procurement field arguing that procurement activities might be allocated to the categories of strategic levels (Ramsay & Croom, 2008). Activities such as assisting user departments in preparing detailed specifications, negotiating with suppliers, and outsourcing non core functions of the firms have given the procurement function sufficient time to concentrate on other important functions. This fact is also supported by the PPA, (2003) which stipulates that the procurement function should be at strategic level and be managed by well-trained officers (Ss 10 & 11). However, in the city councils the procurement structure may not positively contribute effectively due to the organic structures. For example, (O’Neil & Cammack, 2014) revealed that the structural level of procurement function is below other functional departments. There is also lack of support from the CEOs to promote the function as anticipated by the PPA (2003).

### **2.6.7 Lack of knowledge in the PPPs**

The assessment report of Malawi Government on public procurement revealed that most members of staff at the councils responsible for procurement are not conversant with their roles (SGS, 2011). The report contended that, application of the PPA and Standard Tender and Contract Documents would not be successful without proper training. The SGS report also spotted lack of training for procurement managers as a problem that affected the implementation procurements.

### **2.6.8 Corruption**

It is important to distinguish corruption from inefficiencies in procurement. Since these problems go together trade-offs must come into play. For example, choosing to speed up procurement by choosing incompatible method with a threshold might compromise fairness, competitiveness and transparency. It would of course be speedy but not transparent and fair. There are many solutions available to these problems. The procurement cycle needs to be monitored continuously as a mitigation strategy. Supervision plays a key role since good rules are necessary but not always enough to curb corruption. It is therefore important to have clear procedures and audits by qualified parties (SGS Report, 2011). Moreover, the audit report conducted by SGS (2007 and 2011) revealed that councils were not making progress in PPPs leaving them open to fraud and corruption (ODPP/03/130/2011/1)

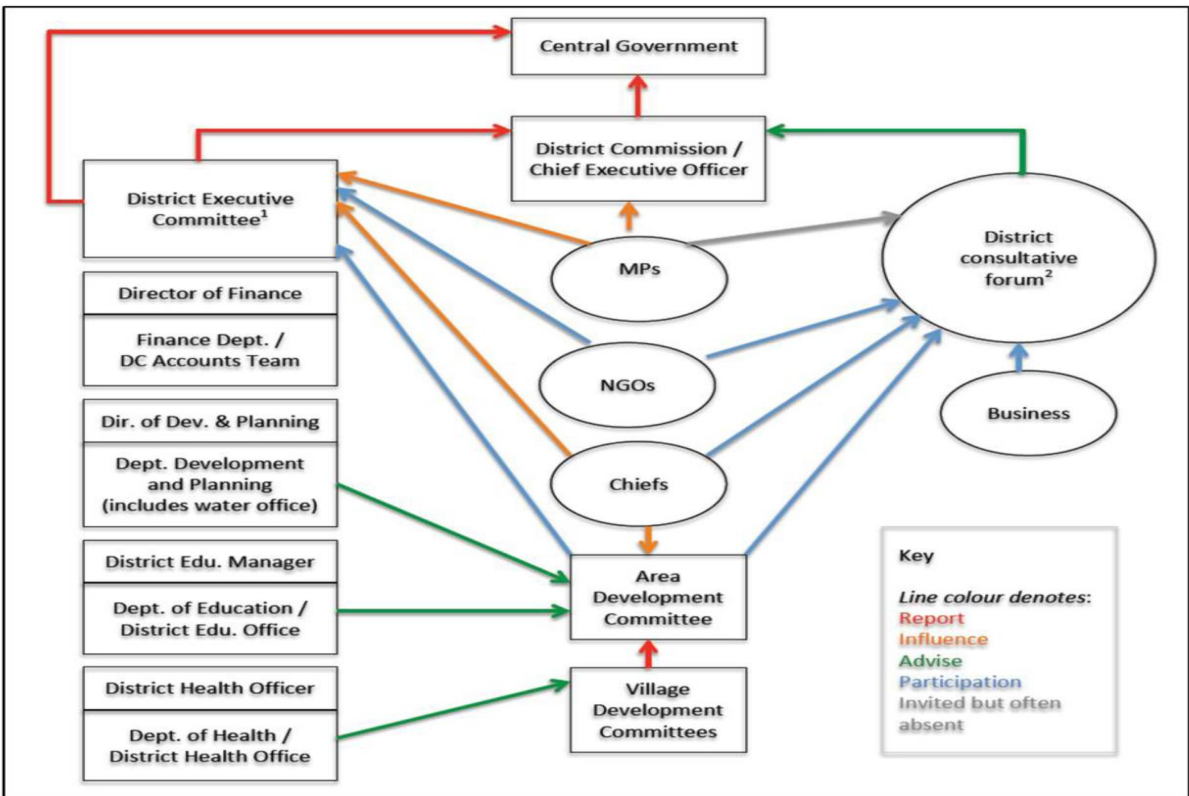
2.6.9 Lack of training for service providers

Many suppliers lacked basic knowledge of the basic law on standard tender documents, access to tender information and technical skills to be competitive bidders (ODPP Annual Report, 2007 & ODPP Audit Report, 2011).

2.6.10 Lack of proper structure and poor salaries

There was also lack of proper structure for the procurement staff in the councils despite the existing structures created by the PPA. The result was that career development for staff did not have a proper path. Their salaries were likewise very low. Capacity building was very limited or non-existent. This had a negative connotation on levels of compliance. Under Sections 10 and 11, it was a constitutional requirement for procurement function to be in place and have proper structures for them to realise VFM. Twelve years after the PPA, the LG is still struggling to properly recognise the procurement function. The figure below shows the current structures in the councils:

Figure 2.9: Basic LG structures and relationships



Source: O’Neil & Cammack (2014)

2.7 Strategic procurement in the city councils

Bailey, et.al, (2008) explained the importance of strategic procurement operations and the benefits organisations can get from the same. Furthermore, Bailey, et.al, (2008) identified the pitfalls many organisations face when PPPs are flouted. Many organisations were dominated by the HR function, marketing, finance and production but procurement. This tradition haunted many organisations such that they could not recognise role of procurement and its substance. Moreover, Sollish and Semanik (2007) argued that in the EU, the process of establishing strategic procurement functions always needed to integrate purchasing strategies for organisations to be in

place. In essence, a procurement strategy can be looked at as a method the teams employ to buy goods and services. Since some goods and services share similar characteristics, it is not surprising that these strategies blend common approaches. Since procurement can be grouped into strategic, tactical and operational levels, there is need to consider the execution of procurements. Table 2.7 gives categories of procurement and risks.

**Table 2.7: Categories of procurement**

Item	Category	Characteristics of purchase	Risks
1	Current procurement	Those purchases within three weeks to 3 months’ time framework; purchases which are demand-based or forecast-based short-term hand to mouth basis	Lack of planning, high prices, may injure the manufacturing.
2	Spot procurement	Purchase on daily basis Demand generated at the last minute used on perishable commodities	Lack of planning, difficult to solicit competitive bids, high prices (adversaries)
3	Volume procurement	Used on larger purchases Purchases on going Framework agreements need to be in place Prices agreed on a specific time horizon	Performance and quality risks, deterioration of product and supplier failure risk
4	Forward procurement	Used where there is projected market shortage Speculated price increased in future Payments made in advance to deviate from price increases Prices are fixed due to forward payment	Demand change, Price and high risk of failure
5	Product Life Cycle Procurement.	When a collaboration relationship with the supplier exists When buyer and supplier jointly develop a product Contracts cater for whole life of the PLC Enhances continued flow of suppliers Reduces the risk of product	Escalated prices in the end, competition reduced in the end, specification of the product may change.

		development to the supplier	
6	JIT procurement	Planned for fixed period of time Uses a simple pull withdraw system (kanban) to pull parts Parts produced in lot sizes of one Quick change over and small lots Quality is essential Frequent deliveries by supplier in small lots	Lack of high-class suppliers, high cost, needs small buffer of stock, needs long-term relationships.
7	Commodity Procurement	Uniform in nature Traded in an open market Many raw materials fall under this category e.g. copper, aluminium etc. Agricultural products like grains and livestock Prices move in relation to supply and demand law Prices can be speculated They are usually traded using financial instruments such as futures options Spot prices used only on available products for immediate delivery.	Price fluctuation

*Source: Sollish & Semanik. (2007)*

### **2.7.1 Spot procurement**

Sometimes referred to, as short-term buying on a hand to mouth basis is a strategy in which, minimum amounts of goods and services are purchased as needed. This approach is often taken when demand is generated at last minute, when the product is perishable, or when prices are declining and the procurement official hopes to benefit in the immediate term as prices continue to fall. This approach can also be taken to protect the firm's cash-flow. The product, must at all times, be in stock by the suppliers in order for this method to work (Compton, & Jessop, 2001). This type of procurement creates a great risk of fraud and corruption due to the nature of contracts (short-term). Short-term contracts are not subject to rigorous monitoring, as they are regarded subtle because of their small economical values. Furthermore, use of cash is always tempting. However, spot purchases have a high-risk in terms of complying with the PPA. They

cannot be planned effectively and can be realised through Request for Quotation Method (RFQM). RFQM is not preferred, as it also creates high-risk of fraud and corruption in the purchasing cycle (Davidson & Sebastian, 2011)

### **2.7.2 Procurement for current requirements**

Requirements in a procurement perspective refer to the amount of any particular material or service you may expect to buy. Current requirements can loosely be characterised as those needed within a short period mostly from 3 weeks to 3 months. While they can be demand-based, depending on the nature of an organisation's market sector, you generally will find that the more distant the time horizon, the greater the likelihood that you will rely on forecast (Schroeder, 1993). This category is also prone to abuse as it leads to ordering of supplies on impulse, and without following rigorous procurement steps. This type of procurement is likewise a typical example of lack of proper planning. Lack of procurement planning is an offence in the PPA as it leads breach of VFM and creates blue ocean in the public market (Basheka, 2008).

### **2.7.3 Volume procurement agreements (VPA)**

The VPA is normally used in large purchases done on a continuous basis. It uses framework agreements. It generally, sets forth the pricing strategies for specific goods and services over a designated period. It takes into account the agreed volumes to be delivered within specified periods. However, it is not usually an actual agreement to purchase as it simply fixes prices for a given period. This reduces the chance of unnecessary change of prices by the suppliers (Carter & Kirby, 2006). Nevertheless, considering the nature of the markets in which procurements happen and length of period for administration of contracts, framework agreements may propel price increases. This is a big challenge on contract administration as it creates the chance for conflicts between the client and suppliers due to misunderstandings arising from price variations (Davidson & Sebastian, 2011)

### **2.7.4 Forward procurement**

Buyers are most often faced with the challenges of anticipating shortage of supplies on the market. This gives rise to the practice of buying in advance of the actual demand or forecasted needs. Forward Buying is generally used to ensure supplies at fixed price when prices are trending upwards or when market conditions indicate that there might be potential shortages in the supply chain (Baily, et.al, 2008 & Beggs, et.al, 1997). However, the requirements of public procurement are that payment should be made to suppliers only when goods are delivered. Such arrangement reduces the risk of receiving goods that do not comply with the specifications.

### **2.7.5 Speculative procurement**

Beggs, et.al., (1997) explained the situation under which buyers need to decide their procurement based on market opportunities. Occasionally, when there are opportunities to profit from buying in larger quantities and reselling the amount in excess of your needs at a profit might be considered. This practice generally occurs when the quantity purchased substantially reduces the price paid and there is a readily available market for disposal of the excess stock. However, this kind of procurement is not suitable for public institutions. Step 1 and 2 of the PPPs makes it a



requirement that every procurement should be initiated by the user departments and should be based on planned procurement activities (S21 of PPA, 2003). It is therefore a big risk to buy materials, which cannot be used by an entity. Besides, such materials can become obsolete.

#### **2.7.6 Product Life Cycle in procurement (PLC)**

It is important to enter into collaborative relationship with the suppliers. When such a relationship succeeds, there might be a time when both the buyer and supplier can jointly develop a product. It might be advantageous to enter into a contractual agreement for the expected PLC. The advantage of such an arrangement is that it reduces financial risk of product development from the supplier's initial investment costs and provides a longer basis to amortise its costs. Sollish and Semanik (2007) contended that when the cost of new technology, is relatively higher than it ought to be, it can provide restraints to effective marketing if the development cost must be recovered in a shorter period such as one to two years. The practice further ensures that there will be an ongoing source of supply at stable pricing for the buyer. However, procurement contracts do not create permanent suppliers. They are generally crafted in such a way that they create opportunities for taxpayers and voters (Erridge, 1995).

Generally, the procurement strategies outlined above are complex and effective but for development reasons, most of them may not be easy, as they seem to be. This is the reason we need a clearly structured procurement function at both the LG Secretariat and city councils (UN Habitat, 2005).

In summary, there is no one single suitable procurement structure for the councils to be followed. The centralised procurement system has its own merits over decentralised procurement system. However, with the PPA in place, it is important to effect a system that supports the Law.

### **2.8 Literature gaps and questions**

The analysis of literature reveals that several issues confront compliance. The underlying theory is that there is agency relationship among the stakeholders involved in the management of procurement in the city councils. Nonetheless, there is desperate need to substantiate the extent the available literature has been able to address the PAT. The literature so far analysed, has established that the procurement function is increasingly being helpful. Precisely, Thai (2001); Obanda, (2010); Msaka; (2009); and Erridge, (2005) have all made noteworthy contributions towards sound public administration and best practices in procurement.

Unfortunately, it is the mainstream organisational studies where research on public procurement is non-existent. While studies by Obanda, (2010) come close to addressing this gap, there is still limited research done on the procurement function and ideal ways to eliminate non-compliance in the LGs. Nevertheless, the major gaps remain in addressing public procurement from perspective of how city councils can align themselves at strategic level. Many policy prescriptions, reform efforts and operational practices in public procurement follow emphatic dimensions including creating position of the Procurement Officer, IPC and Bid Evaluation Teams. The trend in elevating the procurement function within organogram of city councils, and the centralisation of procurement processes in the LG remain a big task since it still requires validation. At present,

procurement function is failing to take the deserving direction as user departments bypass it. Pursuing such tasks without solid grounding of empirical research is likely to perpetuate conditions that characterise the agency problem. This study will thus address the problem by exploring the PAT stream of organisational studied literature, and how it might be applied in the understanding and improvement of compliance levels. However, our main research aim remains unanswered, “This study aimed at investigating the reasons behind lack of procurement compliance in the LGs and the role of ODPP and the PPA in improving compliance levels amongst city councils. Accordingly, the following research objective has been defined for this study; “to propose amendment to the existing framework which if implemented can result in improved compliance”.

To address these deficiencies, we need to amend the existing procurement frameworks. Based on the studied literature, the following three questions were formulated to address the identified gaps:

1. How can the procurement function contribute to the attainment of city councils’ goals?
2. Why is there lack of compliance with procurement procedures in the city councils?
3. Is it valid to assume that procurement function is key to enhancing compliance levels in the city councils?

The defined questions lead to the next step: selection of an appropriate research paradigm that will be discussed in the following chapter three.

## **2.9 Summary of the chapter**

This chapter has identified the main factors that perpetuate non-compliance with the PPPs in the LGs. Most of these factors can be resolved by reviewing the current laws; while some, by utilising awareness programmes targeting the stakeholders. Moreover, the review of the Legal Framework revealed that there are many provisions in the PPA (2003) that are not complied with, so much so that the procurement function seems to be dead. Therefore, the question of “compliance levels in the city councils continued to be an issue”. Since it remains murky why events have turned out this way even when systems were in place, there is need for a robust framework that can enhance compliance levels.

## CHAPTER 3

### 3.0 *Research Design and Methodology*

#### 3.1 Introduction

In this chapter, we discuss the rationale for the research methodology and design adopted by this study. The study utilised qualitative research method guided by interpretative paradigm. The qualitative method unlike the quantitative method is constructed on the ontology, epistemology philosophies. These philosophical foundations provide the direction for comprehensively addressing the research problem, questions and objectives. The selection of a good paradigm and methodology properly aligned to the research problem, questions and objectives help differentiate the unplanned way of research observations from a systematic approach of searching for knowledge. Such well-thought patterns enhance objectivity, specificity, consistency, systematism and constructivism so much, so that it would add knowledge to this area of study. It therefore, follows that advance knowledge about the kind of research paradigms, methodologies and approaches are issues of high importance in social research. The research techniques and tools have further been discussed along with ethical considerations. This chapter provides a comprehensive analysis of the choices selected in conjunction with the research questions. The rationale for advancing a particular research paradigm, approach and methodology has likewise been fully examined as suggested by Flick, (2003); Jankowicz, (2005); and Saunders, et.al, (2009).

#### 3.2 Public procurement research: problems, goals and questions

Like many business disciplines, procurement falls under a socially structured discipline where beliefs, behaviours, perceptions and values are given priority. In these disciplines, to reach at a reliable conclusion, there is need to utilise methods that go beyond the paradigms of positivism. Positivism teaches human consciousness features that help determine reality rather than bare rules. The construction of the mind fills gaps that remain with instruments of positivism. As such, positivism in this case, serves as a prerequisite to the realisation of interpretivism (Jankowicz, 2005). Building on this philosophy, several scholars believe that the choice of a particular research paradigm depends on the research problem and the research questions to be addressed (Bryman, 2008; and Strauss & Corbin, 1996).

#### 3.3 Research paradigm

Jankowicz (2005) argued that though it may not look obvious at first, thinking about where you would want go and how you intend to get there is important. Depending on one's belief and values, research could be directed towards qualitative or quantitative designs. There are of course four main fundamentals that guide research paradigms. Briefly, these are ontology, epistemology, underlying values and methodology. The following sections look at these philosophies and how they shaped this study.

**Ontology:** Ontology is a branch of metaphysics that deals with the nature of existence. This sounds incocomprehensive, but it is very practical. In life, it is the way one perceives things

around their selves. There are many things that one can notice out of which some maybe ignored because they are valueless. This has a strong implication for the conception of reality. Ontology tries to find out why different entities view different things differently. The nature of reality is built around the ontological assumptions of the way an enquiry should be conducted in the paradigm. The researcher's background, experience and education in public procurement will guide this research. The way the paradigm is conducted, will all be impacted and reflected by the nature of the researcher.

**Epistemology:** This looks at personal theory of knowing. Epistemology deals with knowledge about a particular area of research. Knowledge in a particular area of study enhances the researcher to decide what counts as evidence, and what does not. Epistemology of the researcher determines what constitutes true or falsified knowledge. The foundation of an evaluative process originates from such established philosophies as it provides procedures for validation of founded claims by the researchers (Jankowicz, 2005).

**Values:** based on the epistemology of the researcher, it follows that the design of the investigation is based on the belief and values of the researcher. It is important to note that that no research is 100% neutral.

**Methodology:** This philosophy guides the research design and data collection. Depending on the culture, experience and values of the researcher, different methodologies can be used for particular ontological and epistemological perspectives. In the process, strict procedures have to be followed as knowledge is being created.

Naturally, there are just two approaches towards the creation of public knowledge. One depends on scepticism and the other on conviction (Jankowicz, 2005). The classification of research paradigm is based on the above philosophical foundations. Jankowicz (2005) further classified these research paradigms as positivism, interpretivism and critical theory. Likewise, Saunders, et.al. (2009) classified the paradigms of qualitative research study into positivism, realism, interpretivism and pragmatism. Other social researchers classified the paradigms as positivism and phenomenological (Kandad, 2008). It is clear from above that there is a wide range of paradigms from which qualitative research can be founded. These paradigms create cracks that breed confusion when doing research. However, a threefold classification has been adopted for this research due to the commonality in use by most qualitative research studies in the social sciences (Bryman, 2008; Cresswell, 2007 & Kandad, 2008). Based on this, the following categories of paradigms were evaluated for suitability given the research problem at hand.

### **3.3.1 Positivism**

Positivism is a philosophy that comprises several beliefs about how a researcher can make sense of others (Jankowicz, 2005). Jankowicz also argued that a positivist paradigm is traditionally based on natural sciences way of establishing truth, which is also called hypothetic-deductive method. The positivist paradigm is based on realistic ontology and objective epistemology (Jankowicz, 2005). A positivist paradigm assumes that reality can be achieved objectively, and that it can be re-confirmed by a third party who was not involved in the study without changing the findings.

The basic characteristics of the positivist paradigm according to Uwe (2002) are:

- The phenomena can be analysed in terms of variables.
- Data can be collected by a dispassionate outsider and observer.
- Given evidence, it should be possible to distinguish what is true from falsehood.
- The purpose of enquiry is to build theories that should explain phenomena.
- Once such theories have been developed, it should be possible to apply them for productive purposes.
- Quantitative methods and experiments are used to access world knowledge.

It is clear that in a positivist paradigm, the development of a theory is based on rigid deductive methodology. What the researcher is interested in is to prove the evidence that the proposed hypothesis can be supported by data (Saunders, et.al., 2009). That way, there is an air of finality about the choice of theory and definition of the hypothesis.

Regarding this study, an alignment of procurement function with other functions and compliance levels with PPPs, the positivist research paradigm lacks capacity to support the philosophy of the study based on its assumption. According to the positivist approach, it is assumed that when you do research, the best way of achieving truth is to use scientific method, which is otherwise known as the hypothetical-deductive method. Hypothetical-deductive method uses experiment as its most powerful tool to test the truth about the relationship that lie between two variables, (Jankowicz, 2005). Procurement is a Social Science, and therefore, research paradigms such as critical theory and interpretivism are appropriate for the investigation (Baily, et.al, 2008).

### **3.3.2 Realism**

Realism Theory is based on the objective ontology that relates to scientific enquiry (Brayman, 2008). Traditionally, Realism Theorists suggest that what we see and perceive as real is but the truth, and that objects have an existence, which is independent of the human mind (Saunders, et.al., 2009). Realists believe in the epistemology, which is similar to that of positivism as it assumes the scientific approach to the development of knowledge. However, the point of departure between the two paradigms is that the knowledge that exists largely is dependent on the interpretation through social conditioning (critical realist) and the level of understanding by the researcher.

There are two major forms of realism. Empirical realism, that asserts that using appropriate research methods, reality is understood. Simply put, the results of any research are based on the information that is gathered. If the data collected is from wrong sample, the researcher may make wrong conclusions (Dawson, 2002).

The second is that of Critical Realism. This is a specific form of realism that recognises the reality of natural phenomena and the events and discourses of the social world. It asserts that realism means understanding and changing the social world if the structures at work are identified and do generate events and discourses (Bryman, 2008). Saunders, et.al. (2009) also argued that these structures are not spontaneously apparent in the observable pattern of events but they can be identified through the practical and theoretical work of the Social Sciences. To that end, the

ontology and epistemology of Critical Realism are strongly built on values and beliefs of the researcher unlike in positivism. This argument supports the principle of Social Sciences that a researcher will understand the social structures that give rise to a particular phenomenon if there is an understanding of what is going on.

Apparently, a Critical Theorist would go beyond the norms of natural sciences, by analysing why things happened the way they do. Critical Realists recognise that there is a distinction between the objects that are the focus of their enquiries and the terms they use to describe them. Impliedly, a Critical Theorist as opposed to a positivist is perfectly content to admit into their explanations of theoretical terms that are not directly observable. Therefore, the hypothetical entries that account for regularities in the Natural Sciences or social orders are perfectly admissible for the realist, but not for the positivist.

The approaches of Critical Theorists are based on the analysis of an existing framework and come up with the variables, which are tested, on the principles of natural sciences. The resulting theory discovered can be tested based on a particular hypothesis. The research aim is to discover the effects of city councils in aligning procurement functions with other functions in their structure while complying with public procurement laws. The subject is categorised in the social sciences and follows the philosophy of social sciences in which case a realist paradigm may not provide solutions. The reviewed literature on why LGs do not comply with the PPRs does not clearly show whether there is need for development of a new framework or to amend some provisions of the existing law. The study therefore, was concluded based on the Deductive and Inductive Theories. The development of such theories cannot be established just by just analysing the current framework, but also by observing and studying the organisations and understanding the perceptions of people in those organisations. In this regard, interpretivist paradigm, and phenomenological approach were considered for the study.

### **3.3.3 Interpretivist**

Interpretivist is a term that usually denotes an alternative to the positivist paradigm. It is based on the view that a strategy is requested that respect differences between people and the objects of natural sciences and hence needs the social scientist to grasp the meaning of social action (Maykut & Morehouse, 2003). The interpretivist is as such based on the phenomenological understanding of the meanings events have on persons being studied. According to Maykut and Morehouse (2003), a phenomenological approach includes qualitative research and related theories such as Case Studies, Grounded Theory, Symbolic Interactionism, and Ethnography. However, it is possible to note some similarities between interpretivist and critical realism paradigms. They both base their arguments on the epistemological notion that the study of social sciences is based on subjective interpretation of the researcher and the responses from the subjects (Kandad, 2008). It is therefore important to critically look at what impact the epistemological standpoints such as the Critical Theorist may have on the current study. Critical Theories are also based on the transformation of change of the area of study at particular point. This implies that depending on the economic base of an organisation, it is possible to come up with a theory, which will be different when the economy improves (Bryman, 2008). Furthermore,

Jankowicz (2005) and Saunders, et.al. (2009) argued that the interpretivist paradigm is considered neutral and more descriptive. This characteristic seeks to understand the definition of the members being studied and how they perceive the situations (interpretive). It is this notion that makes this paradigm suitable for this research. The paradigm helps build the theory from the participants basing on the situation. The ability of the interpretivist paradigm is strongly favourable in attaining the main aim of the research which is “to study the current public procurement framework and determine whether it fulfils the objectives of public procurement law in Malawi or not”

Conversely, the philosophy of interpretivism, (Maykut & Morehouse, 2003 and Jankowicz, 2005) observed that phenomenology advocates for working with alternatives in the process of managing businesses forms. In other words, interpretivist paradigm works like constructivism. The interpretivist paradigm adopts the ontology and epistemology that advocate for legitimisation of value and weight of individual beliefs. After all, it is the individual who decides on what constitutes an event, who makes measurements, who interprets, and who accepts or disputes observations and explanations. The interpretivist also avoids any search for the truth, and focus instead on socially agreed understanding (subjectivity). The interpretivist facilitates the constant, conscientious and careful monitoring of personal, social, and situational factors which are experienced in the field under study and suggests factors that may lead to a consensus which is likely to turn out to be unhelpful: biased, unreliable or tendentious. All these factors are of specific relevance to the study of public procurement in the LGs and compliance levels.

There is empirical evidence suggesting that the Malawi Government has a legal framework that all public entities need to follow when doing buying. There is further evidence suggesting that the implementers in the LG (ODPP/01/22, 2010) violate the procurement Laws. The reasons for noncompliance are not known. In such a situation, the paradigm to be used need not be a predetermined one (Priori Hypothesis) as argued by (Bryant & Charmaz, 2011). Bryant & Charmaz, (2011) further argued that inductive approach results into the theory emerging from the data, (grounded in the data). In addition, Strauss and Corbin (1998) suggested that interpretive research does not predetermine dependent and independent variables, but focuses on the full understanding of the people involved in the study. Considering the type of study, these characteristics make the interpretivist paradigm more practical. Besides, the research questions strongly support the study of organisation structures, culture and leadership of the councils. Likewise, Charmaz, (2006); Bryant and Charmaz, (2011) and Merriam and Associates, (2002) suggested that interpretivist paradigm provides the best solution for this work as can help establish why councils do not comply with the PPRs.

In addition, Bryant and Charmaz, (2011); Charmaz, (2006); and Merriam and Associates, (2002) further suggested that qualitative research approaches such as Case Studies, observations, interviews, and action research encourage use of small samples and in-depth investigations for the interpretivist's work. They argued that such methods are productive in the development of concepts and theories when the ones in place are not effective. Jankowicz (2005) also advocated for the case for interpretivist epistemology in business management that support qualitative rather than quantitative methods. He also noted that qualitative research methods are relegated to the

initial exploratory analysis, qualitative analysis, induction and some field experiments. As public procurement involves high level of complex decision-making processes, use of qualitative methods for data collection and analyses become essential in this a case.

This interpretivist paradigm and qualitative research methods are usually adopted to answer the research question in this study, and this guides through the development of a framework to be followed. Having decided to follow the qualitative route, there is need to select an appropriate methodology for data collection. The following section explored and evaluated several qualitative data collection tools to enable the adoption of an appropriate methodology that was suitable for the provision of solutions to the research questions.

### **3.4 Research methodology**

From the analysis of the paradigms above, the interpretivist's paradigm was deemed the most appropriate philosophical direction to attain the research goals. The paradigm followed socially constructed ontology, subjective and social phenomena epistemology and qualitative research methods (Saunders, et.al, 2009) & Kandad, 2008). It was therefore, imperative to adopt a research methodology and strategy, which could guide through the collection of data. Many research scholars (Berg, and Lune, 2012; Bryman, 2008; Bryant and Charmaz, 2011; Saunders, et.al. 2009 & Yin, 2014) agreed that research strategy helped interpretative research paradigm to start rolling at the same time integrating such paradigms with respective research data collection and analysis tools.

#### **3.4.1 Quantitative research**

Quantitative research is defined in terms of the relationships that exist between independent variable and dependent variables in a population (Bryman, 2008; Cresswell, 2007; Dawson, 2002 & Flick, 2003). Quantitative research is objective and as such uses Positivist Paradigm (Jankowicz, 2005). The rules for making observations are well developed possibly because measurements are the platform over which the researcher has most control. In quantitative research, the hypotheses for quantitative analysis tend to be highly specific, describing clear relationships between independent and dependent variables. For hypotheses involving two numeric variables, the expected direction of the relationship will be described. For example, a hypothesis might read: we expect that age and functional limitations are related as age increases the number of functional limitations increases. In this type of research, the results are normally presented in numerical formats and analysis is statistically presented. The results of such studies can be generalised because the method is objective. This method is different from qualitative and is not well aligned to the research objectives of this study.

#### **3.4.2 Qualitative research**

According to Cresswell, (2007); Dawson, (2002) and Flick, (1998) qualitative research methods are relevant to the study of social relations due to their holistic approach to culture and social norms. This method is more recommended than quantitative methods because of its appropriate theories, and perspectives on participants and their diversity, reflexivity of the researcher and variety of approaches. The variety of research approaches and methods associated with qualitative research include ethnography, observation, case study, action research and Grounded



Theory (Anthony & Charmaz, 2011; Cobin & Strauss, 2008; Flick, 1998 & Yin, 2014). These methodologies provide skills, practices and guidelines that assist researchers shift from a philosophical paradigm to the empirical world for data collection and interpretation. Therefore, the following section evaluates the above methodologies against research objectives with the aim of coming up with the appropriate methodologies.

#### **3.4.2.1 Ethnography**

Saunders, et.al, (2009) defined ethnography as the research strategy that focuses on describing and interpreting the social world through first-hand field study. People study culture of a group of people or events. The researcher is subjected to studying a particular cultural grouping for a long time in a natural setting. The main characteristic is the way in which cultural grouping is described and interpreted (Creswell, 1998). Using ethnography needs the researchers to immerse themselves in the social world and it is lengthy. The subjects need to understand the researchers for the creation of a rapport and working relationships. Failure to do so end up creating suspicion and restraint that may lead to provision of wrong information. Sometimes, subjects may hide information, as they are not free with the researchers. Since this research strategy involves extensive study, therefore, it may serve as an important alternative for us. This will further help explain why councils do not comply with the PPPs.

Ethnography research study is mainly used in the study of culture in a natural environment, (Timmermans and Tavory, 2011). The main purpose of ethnography is to study culture and its values. However, the objectives of this study are to evaluate compliance levels in the city councils, and hence it demands cross-organisational studies involving individual's perceptions. This will help in generalising the findings and development of applicable theories. Timmermans and Tavory, (2011) further anticipated that since ethnography research involves meticulous examinations; it would therefore provide a valuable substitute for this study as far as data collection is concerned. They also assumed that it would provide opportunities for studying various factors that affect compliance levels in the LGs.

Contra-wise, ethnography has several disadvantages that would hinder its use here. For example, the researcher is required to spend a very long period with the subjects to come up with relevant data (Bryman, 2008). An ethnographer usually studies the culture and organisation which make him understand only one component of a particular issue, and interpret it from the perspective of those involved (Saunders, et.al., 2009) leaving other issues unresolved. The method further requires the researcher to build high level of trust with the subjects in order for him/her to access quality information. This means using ethnography would require working with the city councils for a long period and observe them doing the business. This could be delicate given the sensitivity of procurements and the secrecy inherent in them. Divulging such information to third parties would therefore constitute breach of the confidentiality clause. Besides this, while accessing city councils would not really be a challenge, staying with them for long would just increase levels of suspicion and costs on the researcher's part. Given these concerns, it is clear that ethnography is out of order here. Moreover, generalising of research findings is another challenge with this type of research, and hence inappropriate.

### 3.4.2.2 Action research

The origins of action research are usually traced to Collier, (1945) and Lewin, (1946). Lewin considered action as a spiral of steps, each of which comprised, planning, action and fact finding to get the results of the action (Bryant & Charmaz, 2011). Action research can as such be described as a research initiated to solve an immediate problem led by individuals working with others in a team or as part of a community practice to improve the way they address issues. The philosophy of action research tilts on the understanding that the research is responsive to the situation while emergent on the data studied by the researcher and the participants (Saunders, et.al. 2009). In action research, the researcher does not enter the field to research on the participants rather they collaborate with the subjects to identify issues of importance that affect the performance of a particular activity (Bryman, 2008).

This study involves subjects in the city councils who are not complying with best procurement practices. Action research may be a better methodology to underpin the problems. It is proper though to examine the assumptions held by action researchers. According to Candad (2008), action research suggests that social settings cannot be reduced, and that action brings understanding and change. The second assumption is perhaps the one that best fits this study as also reaffirmed by Bryant & Charmaz, (2011). Moreover, in action research, not much is known at the beginning of the study and development of theories and or redesigning of research methods is usually emergent upon the findings. This characteristic makes action research very similar to Grounded Theory Approach (Creswell, 1998).

In this research, it is also possible to study how the people involved in procurements understand the regulations, and how this understanding influences compliance. Based on these, it then becomes possible to come up with frameworks that can be adopted in order to enhance levels of compliance, and or indeed, transform the existing legal framework so that it serves the purposes. This can only work if the needs of the participants are incorporated in the procurement legal frameworks. Much as this would involve crosscutting entities by studying how and why the councils do not comply, it should be possible to come up with a generalised legal framework. It has already been argued that there is lack of understanding regarding the factors that cause non-compliance in the city councils. If this is true, then it is difficult to persuade institutions to participate in action research when they do not understand that there is a problem (Smith, et.al, 2010). More so, Chari (2007) also argued that action research takes long time before it can yield results. This prolonged period would not be favourable for the city councils and the researcher as well given their numerous commitments and costs. The research goal of this study required that the findings be generalised in order to come up with a framework that can be used in public procurements, while underpinning the problems of compliance. Unfortunately, action research does not provide proper guideline as to how such generalisation can be done. According to Bryman (2008), the repetitive processes make it difficult to come up with the same results. Besides, action research is usually associated with theory testing. Yet theory testing is not the main aim of this study. Following these fears, action research was ruled out.

### 3.4.2.3 Grounded Theory

Grounded theory (GT) is a research methodology, which came first to the attention of qualitative researchers with the publication of the discovery of Grounded Theory (GT) in 1967 by Barney Glasser and Anselm Strauss (Charmaz, 2011). The approach aims at explaining the social phenomenon. Like with other forms of qualitative research, GT uses systematic approach to develop and inductively come up with a deep-rooted theory about the research phenomenon (Corbin & Strauss, 2008). The philosophical aroma of the GT according to Glasser and Strauss (1967) aims at generating a theory that accounts for a pattern of behaviour and it is usually problematic for those involved (Gutherly, 2010). It is clear that Glasser and Straus (1967) in their original arrangement aimed at developing the GT out of symbolic interactionism, which has remained the basis for its development. In the process of symbolic interactionism (Glasser, 1978) added that the researcher would collect the data. Of particular importance is that of Glasser's constant reminder about, **"all is data"**: right up to the present day (Bryant & Charmaz, 2011). Glasser (2002) also supported the assertion by Bryant and Charmaz about everything that you learn in the GT research topic can serve as data. However, what is necessary is that data vary in quality, relevance and use. After all, researchers' degree of discerning useful data and coding them is different and is based on their ability. It is thus useful to understand that it is people who construct data. It does not matter whether the researchers construct first hand data by means of interviews, field notes or texts from other sources such as historical documents, Government Records or any other information meant for private use. Such data is usually treated as facts only. Nevertheless, data is created for some purpose to achieve certain objectives. The purposes and objectives of a particular research will, as such, arise from the influence of historical, social, and situational conditions of the respective researcher (Charmaz, 2011).

As described above, the social life of a researcher (Strauss & Corbin, 1998) is at the helm of social interpretation of the social interaction. Notably, much of the symbolic interaction is based on assumptions. Lora (2011) as cited in Bryant and Charmaz (2011) argued that social lives are expressed through symbols as follows; 1) human beings act towards things (objects, institutions, situations and other people) on the basis of meanings such things have for them; 2) the meanings of things in life arises out of the social interaction that a person has with others; 3) meanings are modified through an interpretive process in which people engage when they deal with things they encounter. Strauss and Corbin (1998) then stated that the aim of the GT is to understand how a group of people, through interaction define reality.

According to Lora (2011) as cited in Bryant and Charmaz, two theories can be generated within the GT; Formal or Substantive Theory (F/ST). Basing on Ann, M. Gutherly, (2010) a theory could be formal when it is developed for conceptual areas of enquiry, while Substantive Theory is developed for an empirical area of enquiry. The collection of data is guided by the theory the researcher aims to generate. According to Lora (2011), the FT is generated when data gathered are compared substantively across context in order to generate a theory that crosses it. The theory generated should also encompass substantive boundaries. This research study developed a Substantive Theory for Malawi with special focus on alignment of public procurement function with other functions in order to enhance compliance levels. However, GT has been known to face

a lot of challenges due to its failure to appreciate the implicit priori theories which guide research work in most research strategies (Bryman, 1998; Strauss & Corbin, 1998; & Silverman, 2005). The GT becomes of paramount importance in times when the researcher has little or no knowledge about the subject matter under inquiry. It advocates ignoring the previous knowledge so that the analytic and substantive theory can emerge (Charmaz, 2011; Strauss & Corbin, 1998). However, several concepts have been described in the literature review about public procurement procedures. These concepts would be used as benchmarks for conducting this research study. After all, in public procurement, it is difficult to collect data until the categories are saturated. One of the goals of this study was to develop frameworks that should encompass several key elements of the councils. Focusing on each of the council's elements excessively, would make the construction of the proposed framework impossible. Cresswell, (1998) and Kandadi, (2006) supported this argument and noted that GT faces the difficulty of determining when categories are saturated or when the theory is sufficiently detailed.

The evaluations above indicate that the GT has some limitations in the context of this study, more especially in the data collection mechanics. Researchers such as Silverman (2005) noted that the GT could also degenerate into empty shell of categories or into a mere smokescreen used to legitimise pure empiricist research. Therefore, the GT strategy is not the best option for us here. However, most of the limitations of the GT discussed here are in connection with field study or data collection only. This means the GT approach can somewhat provide inputs that are more valuable as data analysis tool for this study (Kandadi, 2006).

#### **3.4.2.4 Case Study**

Saunders, et.al, (2009) defined case study as a research strategy which involves empirical investigations of a particular phenomenon within its real-life context and using multiple sources of evidence. Yin (2014) further defined this as strategies that are used in situations where the boundaries between the phenomenon being studied and the context within which they are being studied are not clear. Christensen, et.al, (2011) defined a case study as the intensive description and analysis of one or more cases. It is therefore imperative to understand that a case study can either be a person, an organisation, an activity, a process or an event. The case study is a favourable research methodology when searching for answers to the when, what, how or why questions. It can further be a more important tool when the researcher has not much influence over the events under study (Bryman, 2008).

There is a strong correlation between the current study and the use of case studies for the reasons that compliance concerns people and how these people perceive the whole system. Here we aimed at establishing compliance levels and the reasons councils fail to comply with the PPPs. Since councils use people to do the procurements, case study approach was appropriate. More so, the methodology has been widely used in interpretive qualitative research and has been widely supported by positivist quantitative research paradigms (Cresswell, 2007). Jankowicz (2005) compared the positivist to the criteria of sample size, location, theories and hypotheses, qualitative and quantitative data, reliability, validity and generalisability. Saunders, et.al, (2009) further argued that the positivist paradigm is related to a deductive process, where generalisation

leads to prediction, explanation and understanding. Conversely, the interpretivist paradigm is related to an inductive process, where theories are developed in order to understand phenomena. Thus, the descriptive and explorative characteristics of the methodology make it suitable for this study.

Case study as already indicated is best suited to this study because it presents us with a perfect fit for the aims and objectives. Moreover, the strategy is flexible in terms of philosophical assumptions and can be used in both the positivist and interpretive research paradigms (Benbasat, 1987; Walsham, 1993 & Yin, 2014). The case study strategy also supports the explorative and descriptive nature of the research questions in this study. These characteristics make it a much more suitable alternative. However, it should be evaluated further in order to be sure about its suitability for the study.

The following characteristics make case study suitable for this study:

- It is able to address a broad research topic (Yin, 2014). This characteristic makes it an effective option due to the nature of the research problem under study. The research topic “compliance and how it impacts alignment of procurement function” This topic is broad and can be addressed by the case study.
- It is used to cover complex multiple cases in varying conditions (Yin, 2014). This attribute is valuable for this study as one of the research goals is to develop public procurement framework which if accepted can be used in all public entities.
- It leans on multiple sources of evidence (Cresswell, 1998; & Yin, 2014). This flexibility serves as a beneficial quality as this study requires empirical data from several councils to answer the questions.
- The explanatory question such as “how and “why” are likely to lead to the use of case studies as research strategy (Yin, 2014). This characteristic makes it an ideal route to address the research problems.
- It is preferred in examining contemporary events, but when the relevant behaviours cannot be manipulated (Yin, 2014). It has been argued before that it is not yet known why councils fail to comply with procurement procedures. In such a situation, it can serve as a valuable alternative to studying the existing PPPs and modify them.
- It is thought to be useful tool in furthering the understanding of a problem (stake, 1995). It thus has been argued before that there is lack of comprehensive understanding of the concepts in PPPs. This means, the case study methodology may serve as an excellent learning tool.
- In case studies, the goal is to do a “generalising” and not a “particularising” (Lipset, et.al., 1956). The generalisation capacity of the methodology is an essential requirement for this study as the goal is to develop a framework that can be applied in all government departments.

The above characteristics indicate the suitability of the case study approach to the research context. However, like any other approach, the case study is not free from weaknesses. Some limitations of the research strategy have been raised over the years, questioning the empirical validity of the case findings (Yin, 2014). The limitation of the case study is related to the ability of the approach to generalise the findings (Kennedy, 1976 & Lesne & Peshkin, 1992). Additionally, Yin (2014) asserted that it is possible to generalise theories from a single case study. In spite of this assertion, to overcome the criticism accorded to generalisability, and to improve the impetus, the multiple case study approach was proposed and has been adopted for this study.

Harriot and Firestone (1983) suggested that evidence from multiple cases is often considered more compelling, and the overall study is therefore regarded as being more important. Another main argument in support of multiple case studies is that it improves theory building. By comparing two or more cases, the researcher would be able to establish the circumstances in which the theory will or will not hold. The comparison between multiple cases can also reveal concepts that are relevant to an emerging theory (Bryman, 2004; Bryant & Charmaz, 2011; Eisenhardt, 1994; & Yin, 2014). However, Dyer and Wilkins (1991) argued that a multiple case study approach tends to mean that the researcher pays less attention to detail and more to the ways in which the cases can be contrasted. In this study, the rationale for choosing multiple case studies is to establish the similarities in organisational characteristics and best PPPs and compliance levels. Since the main intention is not to establish the contrasting characteristics between the cases, therefore the above criticism does not hold water. Moreover, all the cases belong to the LG hence care will be taken to make sure that selected cases cover all the three city councils. Other limitations with this method involve bias of evidence, and the capabilities of the researcher to conduct the case studies. These issues are of course common with any other research and can be handled by adopting strict protocols at design and analysis stages (Hoaglin et al., 1982 & Yin, 2014).

In general, the evaluation of the case study approach has revealed its suitability to this study. Its characteristics are favourable enough to address the research problem, the goals and the questions. The major limitations can be addressed through an effective research design and data analysis. Therefore, this approach was adopted owing to its strengths.

### **3.5 Research design**

Generally, qualitative research needs a design before data collection or analyses commence (Dawson, 2002). A research design is not just a work plan but also a way to ensure validity of collected evidence. Work-plan details what has to be done to complete a project, while a research design ensures that evidence obtained enables us to answer the initial questions clearly (Jankowicz, 2005 & Saunders, et.al. 2009). However, Kandad (2006) and Saunders, et al (2009) argued that a research design is an action-plan for moving from one point to another. His argument focused on the meaning of ‘here’ and ‘there’ where ‘here’ means a set of questions that lead to rich data, while ‘there,’ means the conclusions made out of the analyses. It is therefore appropriate that a research design be prepared specifically for this study in order to address the

research problem. The research design should thus enable the study to generalise the conclusions (Creswell, 2007). Yin (2014) further suggested that the case study design should at least comprise of the following components:

- A study analysis
- Its proposition if any
- Its sample analysis
- The logic linking the data to the proposition and
- The criteria for interpreting the findings.

The first two components were addressed through critical review of public procurement systems. The result of addressing the first two components was development of research questions and problem. However, the last three components require the development of hypothesis for the study. According to Creswell, (2007); Jankowicz, (2005); Denzin and Lincoln, (2000) the hypothesis development is a characteristic of positivist research design. They noted that, in interpretive research study, priori design of theory might deter the introduction of new creative thinking. Because of the nature of this study, which is interpretivist and explorative in nature, we deliberately ignored the route of priori theory development. However, Hussy and Hussey, (1997) supported this notion and advocated for, “theoretical framework’ which is the collection of theories and models from literature which underpins a positivist research study. While this study intended to use the priori theory, it is nonetheless guided by the research problem, goals, objectives and questions that were designed specifically for this study. This way of doing research was also supported by Yin, (2014) as he noted that even in explorative research study; the design should at least state the purpose, and the criteria by which study will be assessed. In the next sections, the cases to be studied were analysed.

### **The units of analysis (cases)**

According to Kandadi (2006), unit of analysis refers to cases to be studied as part of the research. The process of selecting a sample (case) for study is a very important one in research design as it determines the quality and relevance of the empirical data to be collected and directly guide the conclusions. Yin (2014) also argued that the selection of appropriate cases results from the accurate specification of the primary research question. All the research questions demanded studying several factors such as organisational culture and business processes. Understanding such critical organisational behaviours, depend on choosing the correct case studies (Stake, 2000; Kandadi, 2006; Miles & Huberman, 1994).

The case organisations for this study were selected through a purposive sampling. The aim was to achieve diversity in the responses, and to qualify the collected data for generalisation of the observed phenomena. In case studies, several authors have suggested that purposive sampling help build variety and intensity (Miles & Huberman, 1994; Stake, 2000; & Yin, 2014). In purposive sampling, it is important that the researchers select the unit of research, based on the characteristics that are important to the evaluation (Yin, 2014). A sample of three large city

councils from the LG were thus selected based on size, population of the employees, knowledge intensity, location, age of the councils and maturity in procurement procedures. Based on the research problem, goals and questions, the following criteria were defined to select the case organisation and interviewees.

- The case should be at central location of the region
- The case should have an organised IPC
- The case should have procurement function, finance function and controlling officer
- The case interviewees should be actively involved in procurement decisions.

Based on the criteria above, three city councils were chosen. All the three councils had established procurement and finance departments. However, the levels of their IPCs were different. They also conducted structured meetings that decided on what, when, how and where to buy. To achieve a rich mixture of responses, interviews were conducted in distinctive geographical locations of each case organisation. Details of the case organisations and interview locations are provided in the table below:

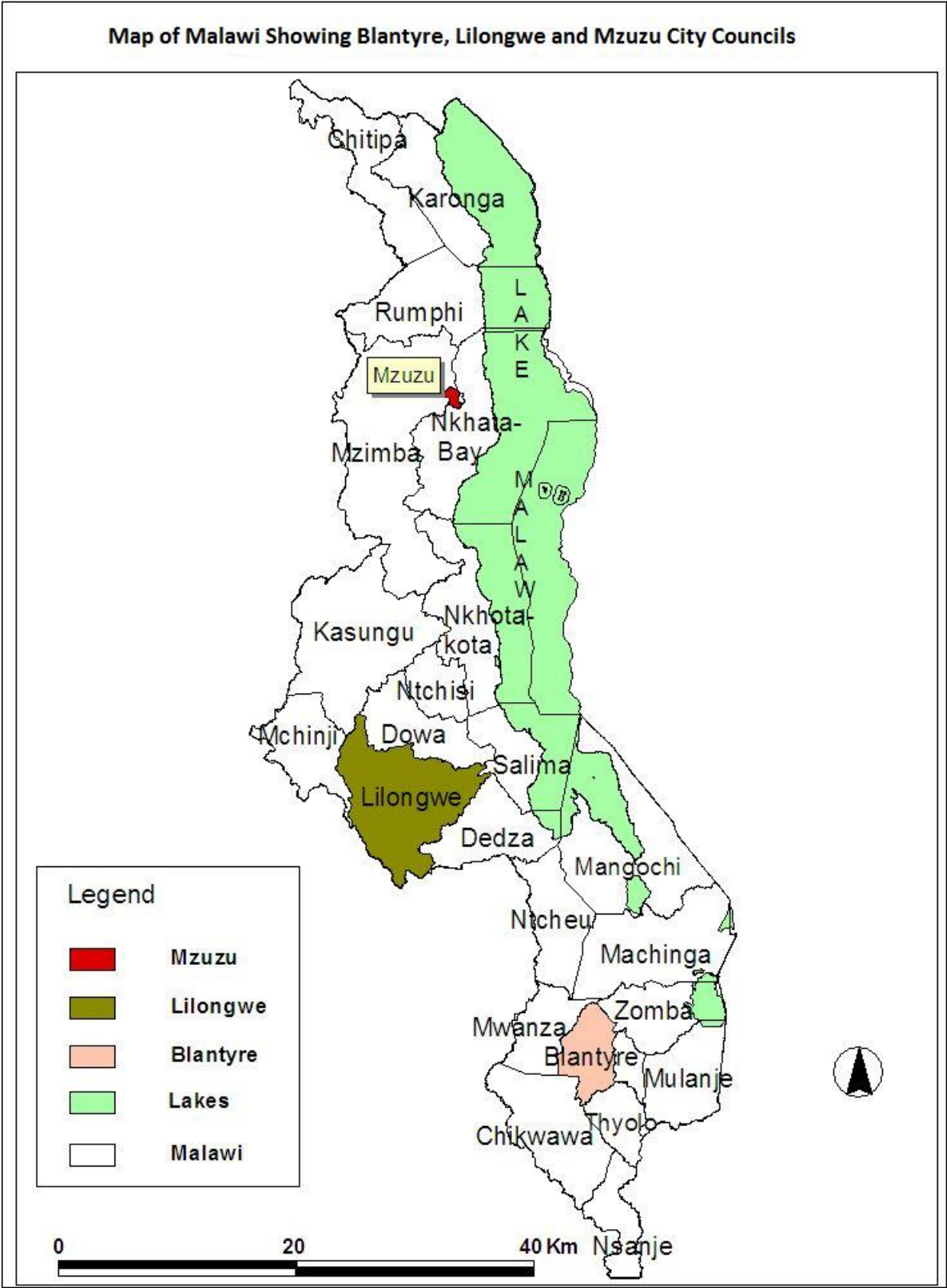
Table 3.1 Case study organizations

City Council	Location	No of employees	Annual budget MK	Annual Procurement budget in MK	Procurements
A	Southern Region	1,990	2,500,000,000	1,500,000,000	utilities, stationery, consultancy services, construction materials, computers consumables, vehicle maintenance, advertisements, electrical and plumbing materials, cleaning materials, labour
B	Northern Region	487	1,500,000,000	600,000,000	utilities, stationery, consultancy services, construction materials, computers consumables, vehicle maintenance, advertisements, electrical , plumbing and cleaning materials, labour for construction
C	Central Region	1,800	2,500,000,000	1,500,000,000	utilities, stationery, consultancy services, construction materials, computers consumables, vehicle maintenance, advertisements, electrical, plumbing and, cleaning materials, labour for construction

The factors for selecting the cases have strengthened this study by giving an opportunity to identify and generalise the best practices in public procurement.



The following section provides brief descriptions of the organisations selected for this study. The descriptions include the organisation background, study context, interviewee’ profiles and the cases selection rationale. Other information, such as respondents’ names, is deliberately excluded for ethical reasons, and Data Protection Act (1998). Figure 3.1 is the Map of Malawi showing geographical position of the cases and other councils. Local government has thirty five (35) councils. However, the map shows twenty four (24) district councils which in some cases are also subdivided into municipal or city councils. For example, Blantyre, Lilongwe, Mzuzu and Zomba are both city and district councils. Likewise, Thyolo, Machinga, Mangochi, Mulanje, salima, Kasungu and Karonga are both district and municipal councils. **Figure 3.1 Map of Malawi showing the Cases.**



Source: Author

## **CASE STUDY (A): THE BLANTYRE (CITY COUNCIL)**

This was established in the 1880's by the Scottish missionaries and is the oldest urban centre. It was declared a planning area in 1897. It is the commercial city for Malawi. The council has well over 1,990 employees. It has a population of about 1,116,770 people. 65% of the population here lives in informal settlements that occupy about 23% of the land. Poverty level of the residents is estimated at 23%, while unemployment is at 8%. Poor governance and revenue collection, and poor management capacity are major issues. To deal with these problems, the BCC established Development Coordinating Committee (DCC) that encourages citizenry participation in management (Dalitso, et.al, 2011). The DDC also recommends policies that would enhance improved livelihoods of the poor. The DDC also recommends expansion of service delivery, planning capacity and fiduciary management as necessary initiatives for the BCC.

### **Administrative, social and basic urban services**

Elected councillors and a mayor elected by the councillors manage the council according to the LGA (1998). The council's infrastructure is poor due to lack of maintenance. Lack of funds affect the provision of social amenities. Funds also affects the council's ability to attract and retain skilled staff who can implement its plans. The council needs to improve its revenue collection base, technical capacity, and transparency structures to promote development. The council is mandated with the provision of social services and maintenance of infrastructure and waste management. However, shortage of resources, poor planning, poor management and lack of good procurement practices affect the provision of these amenities. The council being under the LG needs to follow the provisions of the PPA (2003).

### **Context and description of the interviewee**

The BCC is one of the 35 city and town councils in Malawi selected for this study. It is the largest city in the entire LG. The BCC utilises the PPA, (2003) item No. 8 in the provision of social amenities. One of the key requirements of the PPA (2003) is the use of the IPC in the management of procurements. The IPC is used as an oversight organ in the execution of specialised procurement function (SPU) activities. Three key members of the IPC were selected for the interviews. One of the interviewees was the chairperson. The chairperson was also the controlling officer of the council who is always present at IPC meetings. The second interviewee was the procurement officer who is the overseer of all purchases of the council and follows all the procurement protocols. The third interviewee was the director of finance (DoF). The DoF is responsible for management of finances and payments for the approved purchases.

### **Case selection rationale**

Council (A): the BCC was important case for studying compliance levels in the LG given its size, history and commercial nature. Since it is located in the Southern region, it thus represented well other councils in this region. Administratively, it has key staff such as the Mayor; Chief Executive Officer; Director of Planning; Director of Administration; Director of Finance; Director of Parks and Wild Life; Director of Engineering; and the Director of Administration to which the procurement section is attached. This means that the procurement function is

dependent. The Mayor and councillors have an oversight role over the council's activities. The BCC also has the largest population and is involved in several procurements to provide social services to its citizens. It is the responsibility of the procurement section to buy these amenities utilising PPPs. However, the BCC has one qualified procurement officer and one unqualified procurement assistant. The two are always busy coordinating and managing all procurement events. The council is therefore a good case study for understanding compliance issues. Since it is the largest, it is therefore the most right sample for all the councils in the southern region.

### **CASE STUDY (B): THE MZUZU CITY COUNCIL (MCC)**

Mzuzu was declared a City in 1985. It is one of the fastest growing cities in Malawi. MCC has about 487 workers. MCC is not commercially and socially as active as LLCC and BCC are. However, it is the hub of government administration, business industry, commerce, and services for the Northern Region. MCC was originally developed by the Commonwealth Development Corporation's Tung Oil estate in 1947. It was then largely composed of workers houses and associated services. The MCC was developed in the 1950s as an administration and service centre. With the transfer of the regional administration from Mzimba District between 1950s and 1960, the settlement has developed rapidly. MCC was later designated a township in 1964, a municipality in 1980 and a city in 1985. However, it lacks adequate infrastructure and social services. MCC does not have adequate policies and regulations to support planned growth. It has an estimated population of about 600,875 people. Over 60% of the population lives in informal settlements. Poverty level is at about 25% while unemployment reels at 6%. Major issues concern poor governance and revenue collection and poor management (Dalitso, et al, 2011). Additionally, fiduciary management in terms of procurement procedures is a big challenge for the MCC. The LDF, CDF, Central Government subvention, and market fees support its infrastructure development and service acquisition. The establishment of the DDC has been vital for encouraging citizenry participation in management. However, fiscal policies must be formulated to enhance sound livelihoods. In addition, delivery of social services, planning capacity and fiduciary management is necessary.

#### **Administration, social infrastructure and basic urban services**

MCC is managed according to the LGA (1998) with elected councillors and a mayor elected from within the councillors. Currently, MCC has fifteen wards. Its infrastructure is bad due to lack of maintenance and planning. Lack of adequate resources also affect the provision of social amenities. MCC cannot even afford to attract and retain skilled staff who can implement its plans. MCC needs to improve its revenue collection strategy, technical capacity, accountability and transparency to promote development agendas. Since, it is mandated to provide and manage social amenities and procurements; it needs to be very creative and innovative so that it acquires adequate resources. However, appropriation of financial and human resources alone is nothing if these resources are poorly managed through erratic procurements. This means, MCC needs to do more than just acquiring resources. Particularly, it needs to reposition itself and stick to the dictates of the PPA (2003).

### **Context and description of the interviewee**

MCC is one of the 35 councils in Malawi selected for this study. It is the third largest council in Malawi. It is also the biggest council in the northern region of Malawi hence its selection was meant to represent all the councils in this region. MCC just like BCC follows the PPA (2003) whenever procuring goods, works and services and does use the IPC and relevant committees. For this study, we selected four interviewees from the IPC for interviews. One of the interviewees was the chairperson of the IPC. The roles of this person are the same as those at the BCC. The second interviewee was the assistant procurement officer. This person was responsible for all procurements of the MCC. The Director of Administration guided the procurement assistant on major purchases since his office falls under this department. The interviewee also got involved in all procurements and was guided by the PPPs. The third interviewee was the DoF and had similar roles as the DoF at the BCC. The fourth interviewee was the Director of Administration (DoA). The DoA is the secretary of the IPC and is assisted by the assistant procurement officer

### **Case selection rationale**

Council (B) acts as an important case for studying compliance as it is located in the north. It has all the relevant departments to be able to execute standard PPPs. Just like BCC, it has the Mayor; CEO; DoP; DoA; DoF; Director of Parks and Wild Life; and DoE. The procurement section is appended to the DoA making it a parasite. We selected this council because it is the biggest council in the north and makes huge purchases. This section has one unqualified procurement assistant who doubles as a procurement officer and stores officer. This staff is always busy coordinating, and managing the entire procurements. MCC is therefore a good case for understanding compliance levels and is a representative sample for this region.

### **CASE STUDY (C): THE LILONGWE CITY COUNCIL (LCC)**

Lilongwe is the capital city of Malawi since 1975. It has witnessed high urbanisation since it was transferred from Zomba. . It is in the central region and is on a flat and fertile land. There are also many economical activities taking place in the LLC. LLC has about 1800 employees.

However, LCC lacks the necessary financial resources to implement important development plans and social amenities. The major industry here is tobacco processing. LCC has a population of about 1,174,116 people. 76% of the people live in informal settlements. Poverty stands at about 25%. (Dalitso, et.al, 2011). Poor governance and revenue collection, bad management capacity, and in ability to capitalise on its locational advantage are major factors that limit its growth. Procurements here are supported by the LDF, CDF, government subvention and market fees just like in the other councils. The establishment of the DDC has also encouraged citizenry participation and management. Since, a host of problems confront the LCC, responsive and corrective policies must be formulated if change is to be realised. These should also include expansion of service delivery, planning capacity, fiduciary management and sound PPPs.

## **Administration, social and basic urban services**

The LCC is managed by elected councillors and a mayor elected by the councillors. Currently, the council has twenty-seven wards. The council's infrastructure is poor due to lack of maintenance. Again, lack of adequate resources affects the provision of social services. The LCC is not also able to attract and retain skilled staff who can spur development. It thus needs to improve its revenue collection strategy, technical capacity, accountability and transparency in order to promote development. However, the provision of social services is hampered by lack of resources, poor planning and management and poor procurement practices. Because of poor management, abuse of the LDF, CDF and other funds meant for development has been common.

### **Context and description of the interviewee**

The LCC is the largest in the Central region and probably, the second from the BCC in all areas. Like any council it is guided by the PPA (2003) whenever shopping. It has the IPC just like other councils. Three people were selected for the interviews. One of the interviewees was the chairperson of the committee. The rest of the subjects were selected as we did with the other councils.

### **Case selection rationale**

Council (C) acts as an important case for understanding compliance in the central region councils. LCC has all the relevant business functions to be able to conduct meaningful procurements. The LLC has the Mayor; the CEO, DoP; DoA; DoF; DoP &WL; and DoE. The procurement section has one unqualified procurement assistant who is also the procurement and stores officer. The staff is always busy coordinating and managing the procurement processes. Accordingly, the LCC is therefore a good case for understanding compliance issues owing to its locational advantage, size and competitive advantage.

## **3.6 Sample selection and setting**

In Case Studies theories emerge from the data, and are likely to offer insights, enhance understanding and eventually lead to action, which is based on interventions created from the theories (Strauss & Corbin, 1996). Phenomenology was also favoured because it focuses on "the meaning of an experience of numbers of individuals". The objective of the Case Study is to generate a theory, and a schema that relates to a particular situation. In this case, the theories that relates to procurement function and compliance levels were targeted. Experience of those who made procurement decisions was very crucial as it helped generate concepts that are needed for compliance. However, to draw theories from data, the researcher must be creative and open to multiple possibilities throughout the data collection and analyses. Strauss and Corbin, (1996) referred to this rigorous process as science and art. It is science in the sense that it maintains a certain degree of rigour, grounds the analysis in data, names categories, asks stimulating questions, makes comparisons, innovates, and integrates realistic schema from lots of data. To fulfil this assumption, the researcher had drawn the participants from three members of the IPCs from each council. These members were chairperson, secretary and finance representatives.

These members were key in decision-making of procurements. Therefore, they had amassed sufficient experience in PPPs. The following was their main roles in procurement:

**Table 3.2: The role of key members of the IPC**

Participants	Roles
<b>Chairperson or his delegate</b>	To approve the procurements based on the recommendations from procurement function as contained in the evaluation reports S9 of PPA (2003)
<b>Director of Finance</b>	To provide financial advice relative to availability of funds for payments. To make sure that all the procurements are in line with the approved budget S26 of PPA (2006)
<b>Procurement Officer</b>	To provide secretarial services including; advising the committees on PPPs during procurements; to draft pre-qualification, bidding, request for proposal request for quotation and invitation notices and shortlists; issuing invitation, receiving tenders and closing bidding; assist the IPC with public bid opening; coordinate with requisitions on procurements to make sure that proper specifications are used; evaluate bids and present reports to IPC for approval, conduct post-qualifications and negotiations where necessary; to issue contract award notices; to prepare and issue contract documents and purchase orders; administer contracts; to prepare and issue contract amendments and take minutes of the IPC meeting Ss 10 & 11 of PPA (2003)

These participants provided in-depth data about procurement procedures relating to the councils. The overall aim of this study was to learn how the councils align their strategic procurement function, and how they comply with the PPA, (2003). The idea was to generate ideas and theories that would help reverse noncompliance levels.

In the Case Study, the researcher chooses participants based on their capacity to generate the emergent theory (Morse, 2011) as cited in Bryant and Charmaz (2011). Key members of the IPCs who had sufficient experience in administration of public procurement provided a valuable sample study. The majority of these members were able to describe factors that lead to the shift of paradigm of public procurement from being managed by the CTBs to the establishment of the ODPP. Their belief in the establishment of the ODPP had a positive impact on the creation of strategic procurement in the councils, which would then enhance the levels of compliance with the PPPs. This was non- existent in the era of CTBs.

Members of the IPCs trained in public procurement would understand the objectives of the procurement function, and the need for strategic procurement in modern management. At BCC and LCC, the sampled respondents belonged to the IPCs and were conversant with PPPs. However, at the MCC only, the secretary of the IPC was not a member of the PU as he was just an administrator. This contravened the provisions of PPPs as per PPA (2003) requirements. This

made us increase the number of subjects to have enough numbers who were conversant with the PPA.

### **3.7 Collection of data**

#### **3.7.1 Semi structured interviews**

As suggested by Corbin and Strauss (1996), interviews were used, and where necessary observations were conducted in a semi-structured manner. The idea was that the qualitative researcher needs to collect data from multiple sources. Gobo and Mauceri, (2014); Saunders, et.al, (2009) also noted that the qualitative researcher uses various procedures to reduce fostering of data. When data is collected using different procedures, it is referred to as triangulation. Denzin (1970), Saunders, et.al, (2009) defined triangulation as the combination of methodologies in the study of the same phenomenon. In this study, a combination of data sources was used to collect empirical data (Yin, 2014). The following sources were used to gather data in this case; interviews and secondary data like documents.

#### **3.7.2 Interviews**

Saunders, et.al, (2009) have described interviews as purposeful discussions between two or more individuals. Interviews are able to assist the researchers gather valid and reliable data that would be relevant to the research questions and aims. Saunders, et.al, (2009) also argued that interviews have been the general term used to describe semi-structured interviews, in-depth and group interviews, and structured interviews. For purposes of this study, semi-structured interviews were used. Dawson, (2002), McCrahey, (1988), and Priporas, et al., (2017) asserted that semi-structured interviewing were perhaps mostly used in interpretive and qualitative social research in which little or nothing is known about the concepts and theories being developed. The interviews were then recorded using a tape recorder as a way of collecting data from the respondents at their places of work. Data was later analysed simultaneously as it was being collected (Chamarz, 2014; Strauss & Corbin, 1996). The collected data from one council was compared with that from the other councils. To maintain consistency, similar semi-structured questions were designed to be asked at each interview although the approach was different from one council to another. However, the researcher made sure that the interviews remained flexible so that other important information could still arise (Dawson, 2002). In order not to miss on the data collection deadlines, the researcher produced an interview schedule where topical questions were listed. As the data collection progressed, the schedule was being updated and revised after each interview to include emerging topics.

The advantages of semi-structured interviews are that the researcher has the opportunity to probe for more information (Bryman and Bell, 2015; Priporas & Poimenidis, 2008, & Priporas, et.al, 2017). This process is important because it is interpretive epistemology under which the research becomes more concerned with the understanding of the meanings that participants ascribe to various phenomena (Cresswell, 2013; Marshal, 2011; & Silverman, 2013). The respondents also used words and ideas in a particular way and that gave an opportunity to the researcher to probe these meanings. This added to the significance and depth of the data the researcher obtained. This also helped the researcher get into the discussion he had not previously thought of but was

critically significant for answering the research question. Interviews also accorded each interviewee an opportunity to hear themselves “think aloud” about things they may not have previously thought of. This helped the researcher collect a rich and detailed set of data, and was in line with the objectives of this study.

### **3.7.3 The interview process**

In the qualitative research, data collection is dominated by use of interviews (Creswell, 1998, Silverman, 2005 & Yin, 2014). This is the main method of data collection in addition to observation. Nine questions were prepared for this research as a guide only for the study. These questions were prepared based on the functions of the respondents in the IPC. These questions allowed the researcher to investigate how procurement functions were conducted in the councils. Through this process, issues of procurement procedures and compliance were also examined. Data collection and analysis were simultaneously undertaken. This helped the researcher to move back and forth in search for concise practices. In case studies, the researcher collects data by himself and generally dips into it from the start to the end. In order to collect rich data, the researchers’ experience as a procurement specialist guided what type of questions to prepare in addition issues from the literature review (Charmaz, 2011). Concepts based on literature review and experience were important in directing the interviews. However, concepts in case study also emerge from the data. Since the questions of this research originated from the literature review, it meant that theories that led to the guiding questions were not emergent. These concepts were put aside and removed as real concepts started emerging from the collected data. The analysis of data continued, and were subsequently directed by the emerging concepts from the data analysis

### **3.7.4 Managing the interviews and note-taking**

Dawson (2002) stated that case study is best conducted using interviews that are supported by semi-structured questions. For this reason, the interviews were conducted in a semi-structured pattern. Data was collected using tape recorders supplemented by note taking. On average, each interview was administered in two hours. The advantages of collecting data using tape-recorders allowed the interviewer to concentrate on questioning and listening to the respondent. This also allowed the interviewer to get ready for the next question. Where appropriate, it allowed questions to be formulated right in the interviews and get them accurately recorded for use in later interviews. Re-listening to the interviews provided the chance on how presenting questions during the interviews could be improved. The recorder captured the interviews exactly as they were presented. This removed biased data from being recorded. It also allowed direct quotes to be accurate.

The respondents were informed about the purpose of the research before they were recorded. Most respondents were comfortable to be tape recorded due to the fact that the purpose of the information was solely academic. However, the disadvantage of this research tool was that it required transcribing the data and that took time. Note taking likewise supplemented audio recordings. Every important point that was unique was likewise written down and kept in a diary. All key words and phrases were equally noted. The main reason for capturing important issues was to easily filter out unnecessary points at transcription. The importance of note taking was



also observed by Saunders, et.al, (2009) when he insinuated that note taking also allows the researchers to gain meaningful information, observations and consequential emergency of concepts from a particular interview.

### **3.8 Analysis of data: Grounded Theory (GT) approach**

While there are several methods of analysing data, the researcher selected the GT to analyse the data. This research study being interpretive in nature did not have a hypothetical theory to lean against hence called for the use of the GT. Besides, the GT has generally become a popular data analysis tool in qualitative research in recent times (Charmaz, 2011 & Cresswell, 2007). Thus Bryant and Charmaz, (2011), and Jankowicz, (2005) argued that the GT, resonates well with the interpretivist paradigm because of its commitment to study the social world and a rejection of a priori theorising.

The GT also uses interviews as the main tool for collecting data, and can be supported by observations (Dawson, 2002). According to Charmaz, (2011) and Corbin and Strauss, (1996) analysis of data begins immediately after the first interviews are done. The research is motivated by asking key questions to get rich data. The research theory evolves quickly when relevant data has been collected. The researcher concentrated on data analysis by comparing the data continuously. Corbin and Strauss (1996) believed that continuous analysis of data enhanced the comprehensive emergence of wide codes at the beginning of the analysis. The coded data was organised in the manner that concepts were grouped systematically so that natural categories created were chronological. It was from these categories that theories were built from the research study. Because the GT needed to arise from the data, the researcher went back to the data to illustrate the resultant theory. Ideally, the researchers' attention was on the organisation of ideas that emerged from the collected data. This created a zigzag movement when coming up with the research theory. Having collected data, we began analysing it using the four coding factors as outlined below.

#### **3.8.1 Open coding**

Corbin and Strauss (1996) defined open coding as an analytical process through which concepts are identified and their properties and dimensions discovered in data. Open coding is the first step in the analysis of collected data. It pays much attention to the discovery of concepts by breaking them down into small discrete incidents, ideas, events and finally into action. The broken-down data (popularly known as fractured data) is named or referred to as coded. The main activities in Open coding, according to Corbin and Strauss, (1996) is the uncovering, naming, and development of concepts. The text is opened up and the thoughts, ideas and meanings are exposed to the art of interpretation to enhance the process of conceptualisation. Because in the GT, there is no hypothesis used to guide the development of a theory. Open coding creates an open process in which data is explored without any prior assumption about what theory would emerge from the collected data. As the analysis of the data continued, the researcher was able to discover some common data, and immediately, it was given the same codes. This process of grouping such data made the researcher go into the next stage of coding data, axial coding.

### 3.8.2 Axial coding

In open coding, the data was analysed verbatim in the process fracturing the data. Axial coding reassembles the data that were fractured and builds it into unified blocks. The purpose of axial coding is to develop and relate categories (Corbin & Strauss, 1996). The process of axial coding follows the properties and dimensions of the codes identified in the data. Further to this, the properties and dimensions of the codes are developed with axial coding. This involved the identification and description of causal condition, actions and consequences related to a particular phenomenon. At the stage of open coding, these factors helped describe codes about public procurement in the councils. Guided by cues in the data, categories were linked properly using carefully stated statements (Corbin & Strauss 1996). Axial coding also helped identify the factors that caused misalignment of strategic procurement function in the councils, and described what impact this had on the level of compliance with the PPPs. Of particular importance is that this step helped the researcher address what, and how procurement function could help address the issues of non-compliance and VFM. This was an important stage as most concepts were explained and some theories developed.

### 3.8.3 Selective coding

Corbin and Strauss (1996) defined selective coding as the process of integrating and refining the theory. The categories, which were developed in axial coding, were integrated to form a larger theoretical scheme. The main categories were those that represented main scheme of the research. The theme of this study is “**Evaluation of alignment of strategic procurement function in the city councils and how it impacts on compliance levels in the LG**”; hence, all the categories that emerged from the data, which were directly related to the research topic, were condensed into reasonable words to denote this research. However, Corbin and Strauss (1996) and Charmaz, (2011) identified some core steps in identification of selective coding which are equally applicable to this study:

- Finding a story line formulated around a category.
- Relating subcategories to the core categories.
- Validating these categories against the data.
- Filling in the categories that need further refinement.

For main categories to be developed there are conditions which need to prevail. According to Corbin and Strauss, (1996) and Charmaz, (2011) these conditions are: a core category must be universal and central in order that many major categories can relate to it, and core categories must be able to appear frequently in the data. In this research, the data collected were summarily condensed to concepts with regard to alignment of the procurement function and compliance. Key statements from the respondents which were related to the data were constructed as a symbol of representation of the councils where the data were collected. At this stage, the categories that emerged from the data reflected major issues that influenced council’s alignment with the procurement function and compliance levels. These categories were also direct indicators of the effects of how alignment of procurement in councils affected the procurers in their current

positions. These categories were the driving force for the construction of the general theories, which councils could use as a guide.

#### **3.8.4 Coding for process**

According to Corbin and Strauss (1996), coding for process means a sequence of evolving actions and changes that can be traced to changes in structural conditions. These actions happen over a period. However, they sometimes change or do not depending on contextual situations. Considering the above coding processes, it is important to note that all concentrated on an analysis of data for properties and dimensions. In coding for process, much attention is paid to actions and interaction over time on whether it changes or what enables it to remain constant.

The PPPs that came into effect in 2003 were a gradual action for harmonising the procurement processes. The procedures had put procurement function in motion to deliver the VFM in Malawi. Coding for process has revealed that procurement function goes through different levels of operations. These levels include tactical operations where short to medium decisions are made by the function; continuous level where decisions made at tactical operations are managed until the activities are concluded and the strategic level where the IPCs are charged with the responsibility of making long-term decisions about how to shape and improve procurement functions.

Coding for process revealed the conceptual stages in public procurement in the councils based on the investigations made. At this stage, the actual coding processes were named. The concepts were developed and systematically integrated to form a theory that consequently resulted into a framework. This was done with due consideration of other coding processes already explained. Coding for process provided the chance for the researcher to present public procurement as a unified process which many stakeholders fail to understand. At this stage, the processes of procurement and procurement cycle in Malawi were defined. The reasons for having a long-structured action points in public procurement were also captured.

#### **3.9 Data accuracy and triangulation**

The data collected through interviews and other records were examined to remove excess information. A review of transcribed records and other information was done along with respondents' views and the ODPP' feedback to ensure accuracy.

Many social science researchers have suggested that using triangulation techniques at the data analysis stage improves validity and reliability (Denzin, 1970; Flick, 1998; Dawson, 2002; Jankowicz, 2005; Cresswell, 2007; Brymson, 2008 & Saunders, et.al., 2009). The use of different approaches, methods, and techniques in the same study substantially reduces potentials for biasness. Due to this, triangulation of data and triangulation of the investigator were employed to improve accuracy, reliability and validity (Kandadi, 2006). As part of data triangulation process, the interviews were verified and evaluated by continuous comparisons with the data from other sources. As part of the investigator's triangulation, the data were analysed and compared by different researchers independently. This triangulation also helped achieve accuracy and consistency.

The following criteria were adopted during data analysis stage in order to come up with factors that affected the levels of compliance:

- The factors should be mentioned by one person or more so frequently in case study.
- The factors should be related issues to do with compliance with the PPPs
- Respondents should have provided examples on how particular factors have influenced the levels on compliance
- The data from the interviews should be eligible for triangulation with verifiable data from other sources utilised in this study.

### **3.10 Research Ethics**

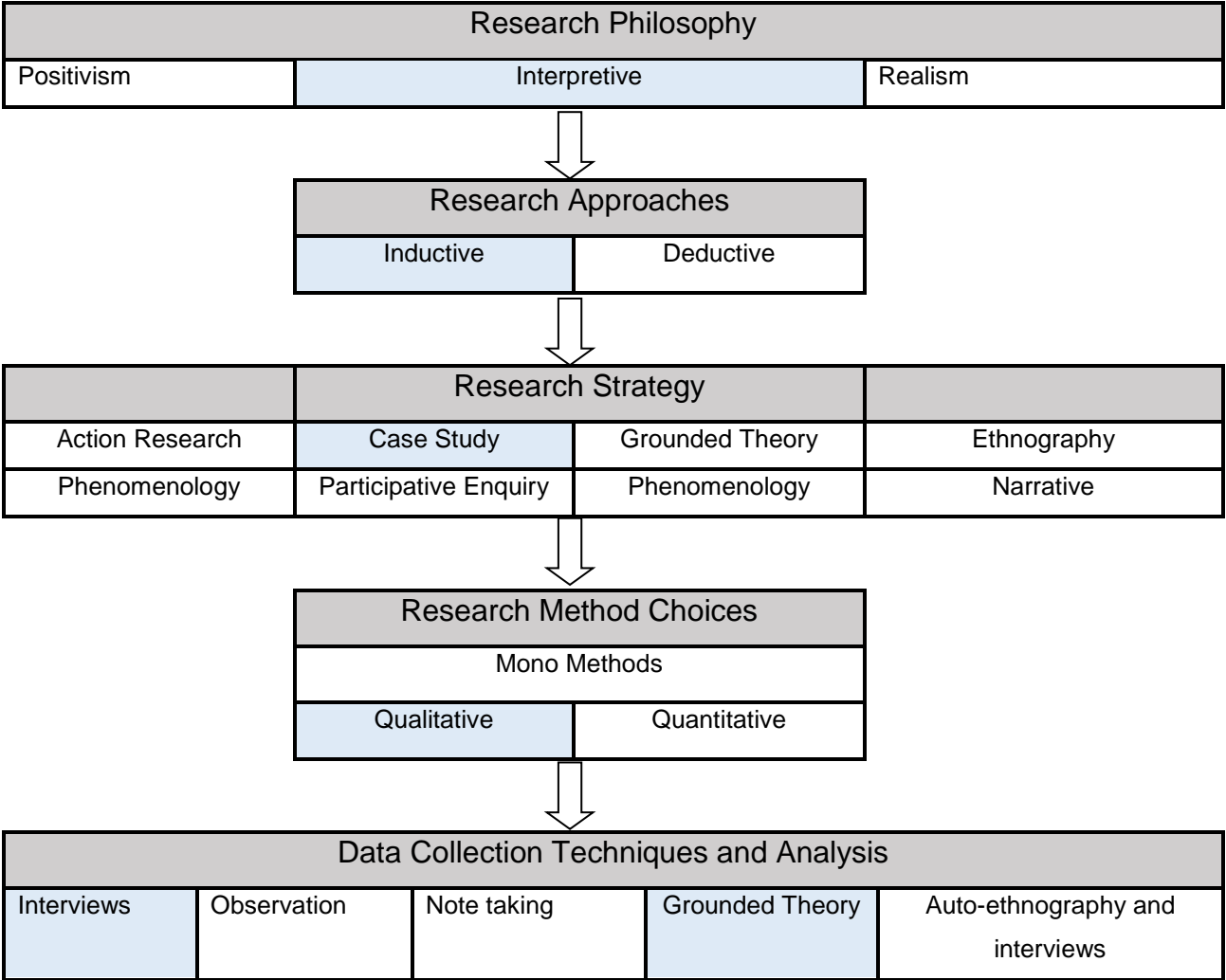
Several research ethical issues needed to be followed while conducting research. Bryman, (2008); Cresswell, (2013); and Dawson, (2002) noted that researchers need to consider the following when conducting research: protect the interest of the subjects; safeguard the confidentiality and anonymity of the participants; and maintain dignity. These issues are important aspects in the context of this study as it involved private data concerning people and firms.

Kandad (2006), in his study advocated the importance of these ethical practices asserting that the value of best research is not likely to outweigh injury to a person. In fact, it is important to understand that “qualitative researchers are visitors in the private spaces of the world. As such, their behaviour needs to be good and their code of ethics strict”. It is on this basis that relevant research ethics needed to be adhered to. Confidentiality of the respondents from each case organization was maintained at all stages.

### **3.11 Summary**

In this chapter, an evaluation of different research philosophies and the associated paradigms have been discussed. An interpretivist paradigm was adopted to guide this research considering its social nature. The methodology for data collection was also explained. The analysis of the methodology strongly favoured use of Case Studies for data collection. However, GT approach was used for data analysis. The figure below summarizes the research methods framework highlighting research design and data collection techniques

Figure 3.2 Summary of Research Methods framework



Source:      Author

**CHAPTER 4**

**4.0     *Data Analysis and findings***

**4.1     Background to the three case studies**

This chapter presents the findings of the empirical study and the proposed framework for public procurement in the LG. These findings are from the three city councils named in Chapter 3. These cases derive their mandate from the LGA (1998) No. 42. They also base their procurement operations on the PPA (2003) No 3. In general, the councils exist to provide policy direction and enforcement of standards for procurements that support citizens.

**4.2     Procurement reports submitted to the ODPP by case study organisations**

Procurement reports were obtained from the ODPP and these constituted a large part of the data for this study. Particularly, reports spanning between 2012/2013 and 2015/2016 fiscal years were collected and analysed. The two fiscal years were selected for their consistency in complying with timely submission of the quarterly reports to the ODPP. The reports were analysed in detail as shown in the tables below.

**Table 4.1       purchases concluded in fiscal years 2012/2013 and 2015/2016**

**Purchases for the BCC 2012/2013 first quarter**

<b>Procurement Method</b>	<b>Brief description</b>	<b>Amount in MWK</b>	<b>Category</b>
Request for Quotation (RFQ), and Single Source (SS)	Maintenance of vehicles, services, Adverts, hall decoration.	2,746,038.85	Services
RFQ and SS	Minor construction and repair work	13,823,456.27	Works
RFQ and SS	Stationery, drugs, fuel, cleaning materials, furniture construction materials vehicle tyres, electrical materials	20,484,493,11	Works
	<b>Total</b>	<b>37,053,988.23</b>	
<b>Second quarter</b>			
SS	Maintenance of vehicles	645,701.09	Service
RFQ and SS	Fuel, chain saw, vehicle repairs, cement, airtime, stationery, drugs, river sand, floor tiles, furniture, balls	13,488,264.99	Goods

	<b>Total</b>	<b>14,488,264.99</b>	
<b>Third quarter, 2013</b>			
RFQ and SS	Repair of vehicles, newspaper Adverts	1,784,903.53	Non-consultancy source
RFQ	Construction of Nasolo Bridge (CDF)	3,744,000.00	Works
RFQ and SS	Electrical materials, protective wear, fuel, hardware, furniture, stationery	32,468,961.92	Goods
	<b>Total</b>	<b>37,997,865.45</b>	
	<b>Grand Total</b>	<b>89,540,118.67</b>	
<b>Purchase for 2015/2016 Fiscal Year for Blantyre City Council first quarter</b>			
RFQ and SS	Advertisements, Servicing of vehicles, website development,	1,233,008.86	Services
RFQ and SS	National flags, concrete rings, fridges, fuel, hardware, vehicle maintenance, sewerage system, grocery items, cleaning materials, airtime, stationery,	41,049,184.57	Goods
	Total	<b>42,282,193.43</b>	
<b>Second quarter</b>			
RFQ and SS	Maintenance works, decoration of COMESA hall, post office and rentals, maintenance of motor cycles	426,675.88	Services
RFQ and SS	Padlocks, clear glasses, door flames, drugs, airtime, stationery, utility bills, office furniture	20,899,778.81	Goods
Open Tender	Construction of Manyowe Market	8,139,167.36	Works
		<b>29,466,221.98</b>	
<b>Third quarter</b>			
OT, NCB, RQF and SS	Internet services, advertisements, hire of vehicle services,	2,152,589.75	Services
OT, NCB, RFQ and SS sourcing.	National flags, concrete rings, fridges, fuel, motor vehicle maintenance, hardware, sewerage system, grocery items, cleaning materials, airtime, stationery, laptops	53,641,028.82	Goods
RFQ and SS	Boreholes maintenance works construction works.	6,891,415.72	Works
	<b>Total</b>	<b>62,685,032.28</b>	
<b>Fourth quarter</b>			
RFQ	Repair services	359,673.39	Services

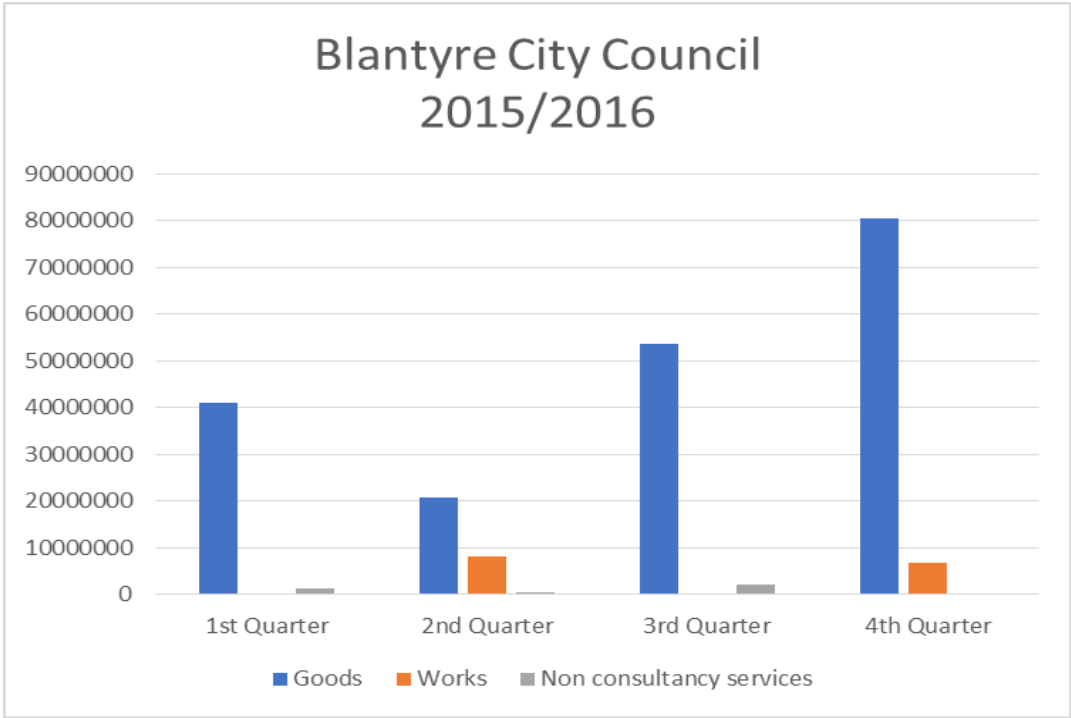
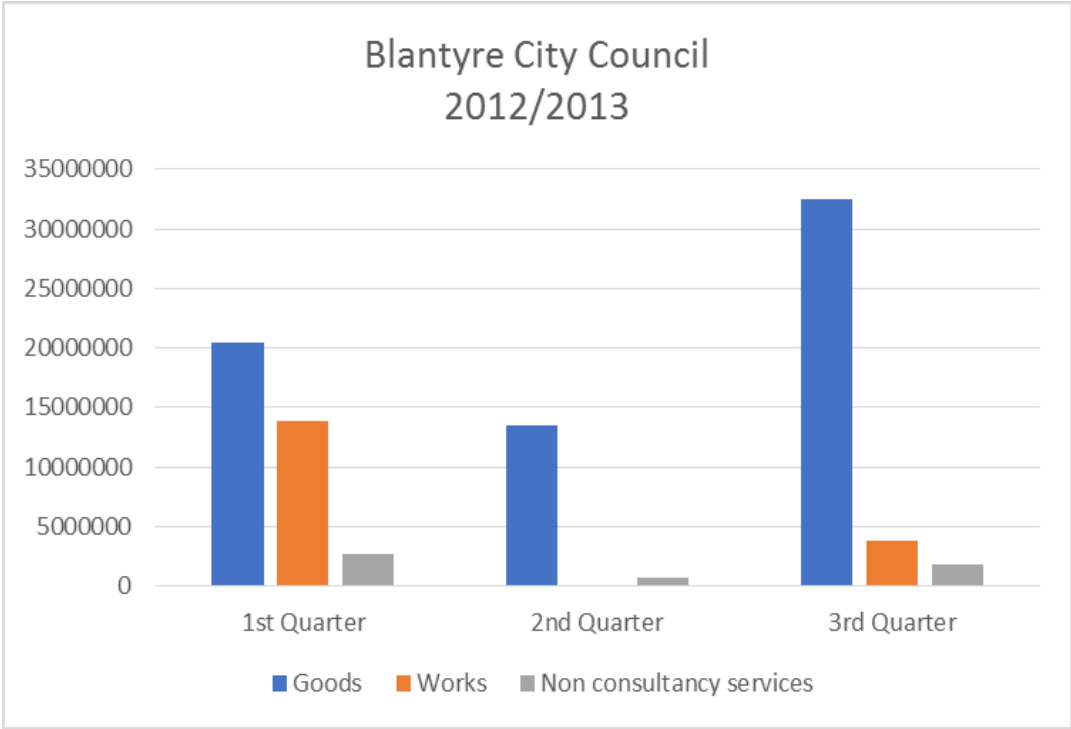
OT (NCB)	Fire Uniforms, fuel, airtime vouchers, road maintenance, poles for construction of bridges.	80,467,567.30	Goods
OT (NCB)	Graveling and associated drainage works of Ndirande and Mateyala Roads	6,770,829.80	Works
	<b>Total</b>	<b>87,598,070.64</b>	
	<b>Grand Total</b>	<b>222,031,518.30</b>	
<b>Purchases for the LCC in fiscal year 2012/2013, first quarter</b>			
RFQ	Maintenance, hire of vehicle services,  carpet cleaning, adverts routine services	6,373,286.13	Services
RFQ OT	Rehabilitation of schools, sewerage system, electrical, plumbing and carpentry materials, stationery, ICT consumables etc.	7,759,290.72  20,506,000.00	Minor works  Goods
	Total	<b>34,638,587.76</b>	
<b>LCC 2<sup>ND</sup> QUARTER</b>			
RFQ	Hire of Vehicles, Service of Vehicles, Adverts	13,286,035.33	Services
OT	Constructing of Maula Road	89,627,237.31	Major works
RFQ OT	Stationery, hardware, ICT supplies furniture and paints etc.	19,533,407.79	Goods
	<b>Total</b>	<b>122,446,680.10</b>	
<b>LCC 3<sup>RD</sup> QUARTER</b>			
RFQ	Adverts, photography, hire of vehicles, carpet cleaning, hire of services	6,813,658.94	Services
RFQ CDF	Construction of learning platform, police unit, footbridge	21,428,596.50	Minor works
OT/ Quotation	Teaching and learning materials stationery, furniture, protective cloth, hardware, vehicles parts.	95,426,763.71	Goods
	<b>Total</b>	<b>123,669,019.20</b>	
<b>LCC 4<sup>TH</sup> QUARTER</b>			
RFQ	Hire of Vehicles, Repair of switch board, Adverts, Binding services etc.	11,428,272.23	services
OT	Donor funded projects for the construction of clinic (bio clinic)	49,219,000.00	Major works

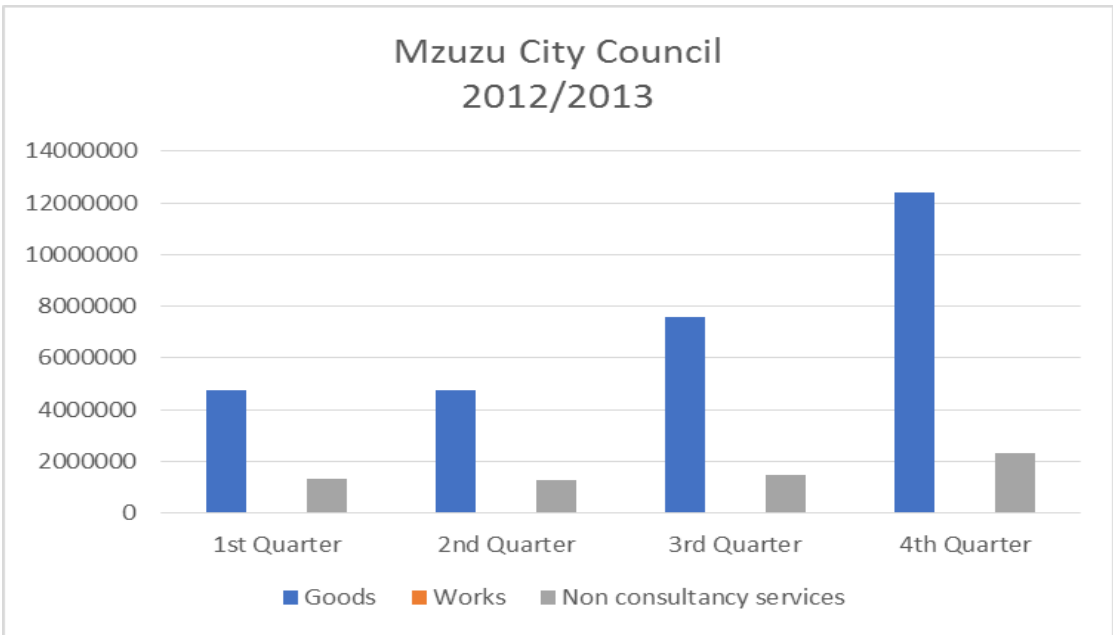
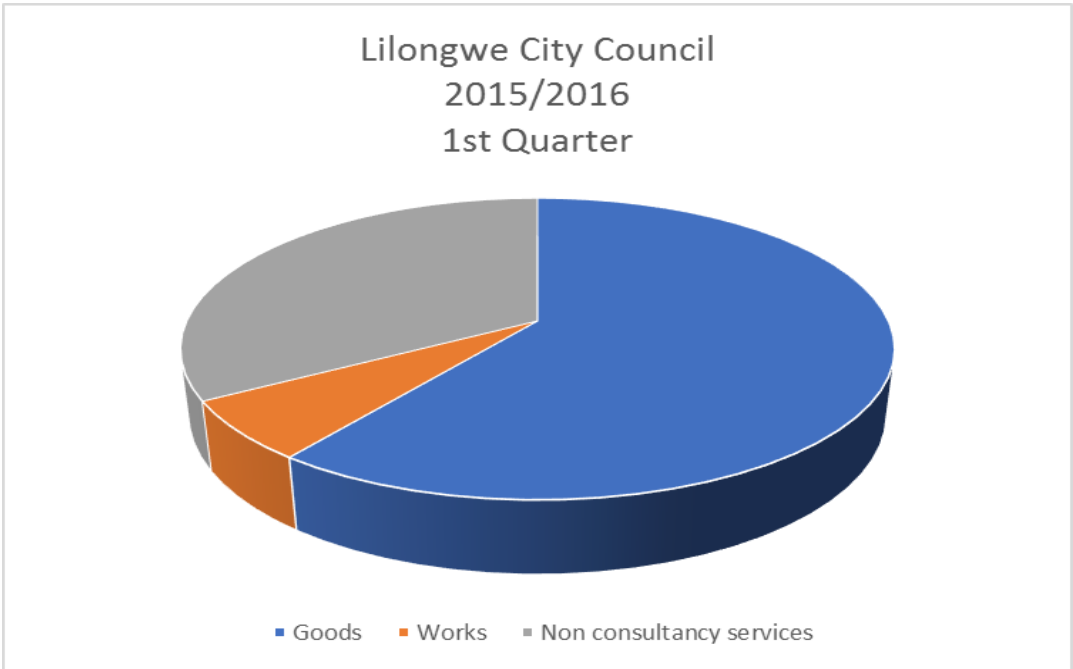
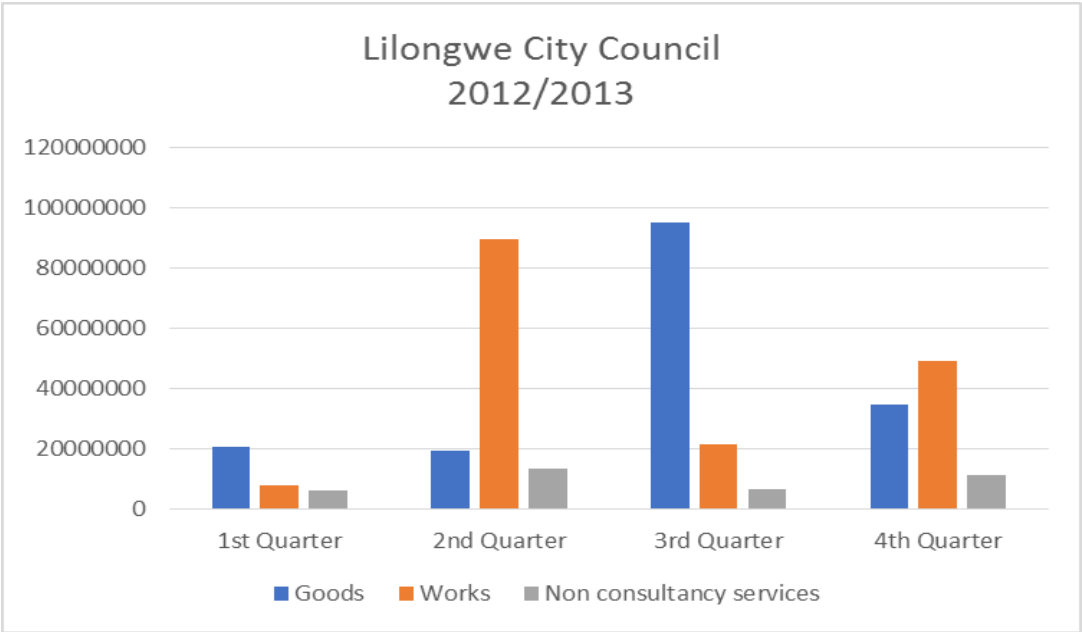


		34,779,323.26	Goods
		<b>95,426,595.59</b>	
	<b>Grand Total for 2013</b>	<b>376,180,882.65</b>	
<b>2015 – 2016</b>			
<b>The LCC -1<sup>st</sup> Quarter.</b>			
OT (NCB) and RQF	Security services, general services, surveying services,	29,666,181.50	Services
OT (NCB) and RFQ	Fuel, coffins, welding materials, stationery, street lights, ICT supplies, staff uniforms,	53,629,604.90	Goods
RFQ	Maintenance works,	5,669,268.53	Works
	Total	88,965,054.93	
<b>The MCC Fiscal year 2012/2013</b>			
<b>1<sup>ST</sup> QUARTER</b>			
RFQ	Vehicle maintenance, legal fees, accommodation	1,304,927.80	Services
RFQ	Refreshments, fuel, cleaning materials, electrical materials	4,735,928.44	Goods
	<b>Grand Total</b>	<b>6,040,856.24</b>	
<b>2<sup>ND</sup> QUARTER</b>			
RFQ, OT and SS	Foodstuffs, utility bills, security services, motor services, legal services, airtime, insurance	1,285,465.51	Services
RFQ, and SS	Foodstuffs, fuels, refreshments, vehicle parts, airtime, rubber stamps, cleaning materials, plumbing materials, stationery,	4,775,540.92	Goods
	<b>Total</b>	<b>6,061,006.43</b>	
<b>3<sup>rd</sup> QUARTER</b>			
RFQ, Single sourcing	Security services, legal services and maintenance	1,484,029.98	Services
RFQ Single sourcing	Protective materials, coffins, fuels, airtime, electricity, refreshments, computers	7,586,231.45	Goods
	<b>Total</b>	<b>9,070,261.43</b>	
<b>4<sup>th</sup> QUARTER</b>			
RFQ	Security services, legal services	2,305,887.26	Services

Single sourcing	and maintenance services		
RFQ, Single sourcing	Protective materials, coffins, fuels, airtime, electricity, refreshments, computers	12,424,083.87	Goods
	<b>Total</b>	<b>14,729,971.13</b>	
	<b>Total</b>	<b>35,902,095.23</b>	

The following bar and pie charts represent the above tables.





From the tables above, it can be inferred that city councils make various procurements. It is estimated that these councils spent almost 40% of their budgets on emoluments and 60% on

procurements. The procurement is done through the IPC. Before procurement contracts and purchase orders can be issued to the winners, the IPC has to approve it, then the ODPP reviews the approvals based on the threshold value. Not all thresholds below a certain amount are submitted for prior approval. The threshold amounts which do not need prior approval are MK5million for goods and services, and MK15million for works. The list of purchases was captured from the ODPP's reports after the procurements, for all the three case studies, were concluded and reviewed. From this list, it can be noted that some purchases for some quarters are missing. This is a sign that many entities did not comply with the PPPs. So far, the MCC did not provide quarterly reports for the fiscal year 2015/2016, the LCC did not provide such reports for last three quarters of 2015/2016 while the BCC did not submit the reports for the fourth quarter of 2012/2013. Due to non-submission of these reports, it was difficult to know the exact trend of purchases. The following is the summarised purchases for fiscal years 2012/13 and 2015/16 for the three case studies excluding the reports that were not submitted to the ODPP and hence not reviewed.

**Table 4.2 Summary of Purchases**

<b>Case Study</b>	<b>Volume Purchased in MWK/USD</b>	<b>Fiscal Year</b>
A. BCC	89,540,118.67 (UDS 124,360.00)	2012/2013
	222,031,518.30 (USD 308,380.00)	2015/2016
B. LCC	376,180,882.65 (USD 522,475.00)	2012/2013
	88,965,054.93 (USD 123,560.00)	2015/2016
C. MCC	35,902,095.23 (USD 49,865.00)	2012/2016
	00.00	2015/2016

The focus of the study was on the level of compliance. Any deviation from the PPPs is considered paramount as it has a negative bearing on expenditure of public resources.

It is clear from the summarised volume of purchases in table 4.2 that the activities of the BCC, LCC and MCC were different in volumes and prices. However, the other factor that created the variation is that record management of purchases was also different. For example, the BCC did not have any record for the purchases in fourth quarter of 2012/2013. The LCC did not have any record for second, third and fourth quarters of fiscal year 2015/2016, as such data analysis did not include the purchases for these quarters. The MCC did not have any record of purchases for the fiscal year 2015/2016. The issue of record management is a concern that can create room for

fraud. Based on tables 4.1 and 4.2, the audited contracts were reviewed to check if the councils complied with the with the PPA (2003) No.8. Table 4.3 presents audited contracts and factors of non-compliance.

**Table 4.3 Factors of non-compliance with PPPs on sampled contracts (2015/2016)**  
(1) BCC

<b>Contract No.</b>	<b>Contract value MWK</b>	<b>Contract name</b>	<b>Factor for non-compliance</b>	<b>Degree of Risk</b>
BCC1	1,419,562.99	Curtains	No approval minutes No standard RFQ was used  No evaluation report  No purchase order on file  No delivery notes on file  No goods received Note	Low
BCC/GML/01/05/1	1,189,300.00	PA Systems	No approval minutes  No evaluation reports  No purchase order on file  No delivery notes on file  No goods received note No payment Voucher/s	Low
BCC/GML/01/04/41	342,766.01	Construction material	No approval minutes  No evaluation report  No purchase order on file  No delivery notes on file  No goods received note  No payment voucher/s	Low
BCC/GML/01/07/16	2,173,800	Concrete rings	No bid opening minutes  No approval for SS	Low
BCC/P006758	3,248,673.24	Paints	Bids were opened earlier than deadline  No payment voucher	Low
P006840	2,511,657.98	Roofing materials	No SRFQ  Quotations sourced by MP  No bid opening minutes No bid evaluation report No delivery notes on file	Low
BCC/Goods/01/16	389,950.00	Fridge	Bid opening date different No payment voucher	Low
BCC/MV/20/15/01	34,283,438.00	Motor vehicle	Price was varied against ITB14.7	High

			No delivery notes on file	
BBC/LDF/06/15	30,157,027,59	Construction of lock up shops	No payment vouchers No contractors' certificates on file	High
PO 006789	1,709,083.00	Tyres for vehicles	No evaluation report on file No delivery notes on file No payment voucher	Medium
Not indicated	1,963,281	Installation stress lights	No delivery notes on file	Medium
Not indicated	1,465,337	Working tools	No delivery notes on file	
<b>(2) The LCC 2016</b>				
LPO 4375697	2,976,008.00	Promotional materials	No record of bid opening on file Purchase order without terms on file No delivery notes on file No payment vouchers	Medium
L.L. 411P404/15/1 NS	12,357,820.70	Insurance services	No delivery notes No payment vouchers	High
LCC/con/15/01	38,080,711.63	Consultancy service	No RFP No contract available	High
None	16,755,250.00	Consultancy service	No bid opening minutes No evaluation report No approval minutes IPC No payment vouchers on file No record of suppliers	High
LDF ESWAPAP 06/14	4,836,250.00	Primary School furniture	No bid opening minutes No approving minutes No evaluation report No payment vouchers on file Contract was sliced to avoid procedures	Medium
<b>LILONGWE, 2013</b>				

(1) LDF/07/1 3 C & AB/08	2,320,000.00	Construction of Mvama School block	No STRFQ No approval minutes No evaluation report No purchase order on file No delivery notes on file No goods received note	Medium
(2) IPC466/0 1/14	8,277,208.20	Salary ships	STRQ used instead of NCB No approval minutes No purchase order No delivery notes No goods received note	High
(3) LCC/24/ AD Min/03/1 3/U and PN	24,393,119.5 0	Protective wear	NCB was used No invoices on file No payment vouchers No prior review	High
(4) No. Referenc e	3,551,991.80	Traffic lights	SS was used No prior approval from ODPP to use the method	Medium
(5) LCC/28/ Admin/ 63/13/Ea st	13,965,058.7 0	General electrical supplier	NCB was used as procurement method No advertisement No delivery notes on file No invoice on file No goods received notes No payment vouchers Contract on file was void as it did not have contract price	High
(6) LCC/23/ ADM/03/ 13/CS	6,822,570.00	Computer consumables	NCB was used No copy of advertisement No delivery notes on file No invoice on file No goods received notes No payment vouchers Contract did not have price	High
(7) LCC 007/LDF IPC/07/17/Tools	3,500,000.00	Concrete rings	RQF was used No bid evaluation report No payment vouchers	Medium

The MCC 2013				
Contract No	Description amount	Contract description	Procurement method	
MCC/IPC/43/12	2,695,300.00	Supply D. cleaning materials	NCB was used  No bidding documents  No delivery notes were available on file  No goods received notes  No invoices  No payment vouchers	Medium
MCC/IPC/T/L/13	4,934,660.41	Teaching & learning materials	RFQ was used Payment vouchers were not on file	Medium
MCC/ENG/RD/1 3/03/01	7,995,875.00	City culverts - construction	NCB was used as procurement method  No IPC minutes for contract award on file  No award of contract letters  No contract agreement  No payment certificates	High
MCC/LDF/ES/N AP11/SB/1/3/12/ 4	1,000,000.00	Construction of school block	NCB was used  No standard bidding document on file  No bids from contractors Contract was signed by one party  No payment vouchers	Low
MCC/IPC/13	1,200/Litre	Cooking oil	RFQ was used as procurement method  RFQ documents were sold at MK2,500.00 (this was strange as RFQ is normally issued for free)  No delivery notes on file  No payment vouchers	Low
None	6,930,000.00	School desks	RFQ was used as procurement method  No SRFQ  No evaluation report  No minutes of approval No delivery notes on file  No payment vouchers	High



MCC/ENG/ECH/ 12/11/1	60,898,050.0 0	Procurement of vehicle	NCB was used as procurement method  No delivery notes  There were no vouchers	High
<b>The BCC, 2013</b>				
PO 005679	Laptops	2,210,005.00	No standard RFQ on file  No record of suppliers issued  No record of bids  No evaluation report	Medium
PO None	Flood lights	1,993,549.00	RFQ used  The standard RFQ was not used  No minutes of bids  No evaluation report  No purchase order	Medium
2MK/11.01 14/3.15.5	Protective clothing	3,254,136.25	RFQ used  No RFQ on file  No minutes of bid opening  No evaluation report	Medium
GMK/05/01/15/ 3.15.5	Road rehabilitati on at Chilobwe	2,925,606.25	No RQF on file  No minutes of bid opening  No evaluation report  IPC evaluated and approved	Medium
None	Tubules tyres	3,256,641.00	RFQ was used  No bid opening minutes	Medium
None	Laptop	599,000.00	RFQ was used  No standard bidding document  No minutes of bid opening  No evaluation report  IPC evaluated the bids and approved its own recommendations	Low
P.O. 005198	Copy Printer	1,963,290.00	RFQ was used  No minutes of bids  No record of suppliers issued  No minutes approving this procurement	Medium
None	Tyres	3,256,641.00	RFQ was used	Medium

Increasing the effectiveness, efficiency and transparency of procurement systems is an ongoing concern for Malawi and the donor community. The government has recognised that increasing the effectiveness on the use of public funds requires the existence of an effective national procurement system that meets international standards.

The assessment and analysis of procurement contracts from the three councils was based on the PPPs as enshrined in the PPA (2003). The assessment checked how the case studies complied with the rules and regulations. The assessment also investigated how well the procurement function and the IPC decisions were made, procurement department preparedness and readiness. Particularly, we looked at how the councils prepared bidding documents, advertisements for NCBs, received and opened bids, evaluated bids, awarded contracts, and how they administered the contracts. This included evidence of delivery notes and invoices from suppliers and goods received notes (GRNs). The last part of assessment checked evidence of payment to suppliers.

The IPC is naturally supposed to comprise of the controlling officer, the head of procurement and the head of accounts, which was also the case with the three cases. However, the findings in table 4.3 revealed that no contracts from the three case studies were compliant with the PPA (2003) No. 8. This implied that all the three councils were not working properly and did not attempt to learn from each other. From observations, it was clear that non-compliance came about because the procurement function did not do its job properly. It was also established that the finance department did not pay its suppliers on time. In addition, there was lack of evidence showing that suppliers were paid and this could mean that suppliers either were paid dubiously or indeed were not paid at all. Moreover, it was observed that the IPC made wrong decisions in many occasions. Based on the findings from table 4.3, Table 4.4 attempted to analyse the general effects of non-compliance.

**Table 4.4 analysis of the results and effects of non-compliance**

Activity	Stakeholder’s role	Provisions	Challenges
Identification of need for supplier selection	User departments  PU  Accounting officer  Councillors/MP	Regulations 25, 26, 27 and 28: Every user department shall prepare a work plan for procurement based on approved budget, which shall be submitted to the PU for implementation and may seek advice where necessary.	Inadequate procurement planning  Detailed specifications and bill of quantities missing in procurement plans.

Identification of key sourcing requirements	User departments PU	Regulation 24 (2C): Procurement requirements shall be documented to make sure that:  a) There is need for the procurement  b) There is budget allocation for such procurements	No evidence of specification reviews being undertaken.  Inadequate capacity to come up with specifications and review the same.
Choice of criterion for supplier selection	PU User department	Regulation 80 (1): the evaluation of bids shall be conducted in accordance with the methodology, and criteria set forth in the bidding documents, and no contrary criterion shall be used	The bid solicitation documents are prepared by the PU and approved by IPC before invitation to tender and the subsequent evaluation. User departments are hardly involved.
Pre-qualification of potential suppliers	PU	Regulation 40-42: where necessary, potential suppliers are presumed to have been already assessed.  Every evaluation is done in three stages as follows:  1. Preliminary examination; a brief assessment of bidder to confirm its eligibility on compliance with instructions to the bid.  2. Detailed examination; where those bidders that complied with stage 1 are further assessed to ascertain suitability.  3. Financial assessment; wherein financial viability and price comparison of bids is assessed,	Withholding of information on ineligible bidders in councils due to lack of knowledge.  Poor record keeping in all councils hence ineligible bidders are pre-qualified.

Select weights for evaluation criteria	PU Evaluation Team	Regulation 98: The relative weight of technical and cost element is decided in advance, and are stated in bid document. The relative weights to be given to the technical and financial components of the evaluation are chosen taking into account the nature of the assignment, the complexity and the relative importance of the technical aspect of bid.	<p>This provision is only in the QCBS method.</p> <p>It does not state explicitly, how and by whom the relative weighting is supposed to be done.</p> <p>This is a practice rarely done and can be attributed to inadequate skills to do it or as a measure to manipulate the evaluation process through use of vague procedures</p>
Choose the scoring methods for the criteria	PU and Evaluation team	Regulation 105 (2): In the QCBS method, it is provided for that the bid with the highest technical score of 100; another bid shall be given a financial score that is inversely proportional to the lowest evaluated price.	<p>The procurement policy seems to be based on the idea that once the buyers' subjective values have been expressed in terms of weights, the remainder of the processes can be considered as a value free administrative exercise.</p> <p>Mistakes are bound to occur. Obanda, (2010) demonstrated that formal supplier selection is far from straightforward. Applying slightly different models to the same case may result in drastic differences in selection of the winner.</p>
Determine the winner	PU Evaluation team IPC	Regulation 106: the final evaluation shall contain recommendations on the best-evaluated bidder.	There are problems in technical compliance selection method. It provides that: a detailed evaluation shall be conducted on a bid, which is eligible and compliant. The

			<p>detailed evaluation shall be conducted on a pass or fail basis; a non-responsive bid shall be eliminated from further evaluation. This is akin to using the method in pre-qualification-stage.</p> <p>It is an intuitive process relying strongly on memory, personal judgement, and experience and ability of the procurement professional. It also weighs the criteria equally which rarely happens in practice (De Boers, 2006). Stakeholders charged with procurement responsibility seem to be ignorant of the public procurement models, which lead to confusion about which models to apply.</p>
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**4.2.1 Implications of results on table 4.4**

The analysis of the PPPs reveals that the PPA (2003) processes are faced with a lot of challenges. An overview of this is given below:

An effective supplier selection process is very important to the success of any organisation. This process is based on well-defined supplier selection criteria. The main objective of supplier selection process is to reduce procurement risks, maximise VFM and to develop business relationships between the procurer and suppliers (Bhutta, & Khurrun, 2003). According to Tirschelvam and Tookey, (2011); Qiao and Cummings, (2003); Boer et.al, (2000); Pal et.al, (2013); Tahriri, et.al, (2008) and Obanda, (2010), the government should have well-defined quality of goods and services it wants, and should only accept alternative goods if the price is reasonable. While this principle is very clear, it is very surprising that city councils in Malawi choose to contravene this law.

To begin with, for all the three case studies, there was no evidence suggesting that specifications were undertaken before procurements. Even where they attempted to undertake it, the specifications were very murky signifying some lack of skill and capacity. In short, it

was difficult to conclude that compliance was there given the absence of such benchmarking activities. Table 4.5 presents the cycle of procurement procedures to be adhered to, and areas of non-compliance.

**Table 4.5 Cycle of the PPPs and areas of non-compliance.**

Activity	Roles	Non-compliance	Name of Council
Procurement plan and budget	User department  PU  Accounting officer	All the councils had no procurement plans.  There was evidence of contract splitting to avoid the threshold requiring OT in all councils.	Blantyre, Lilongwe and Mzuzu.
Procurement Requisition completed with clear specifications	User departments	No specifications available to enable procurements. In some cases, specifications were made around a particular known item, thus preventing competition.	Blantyre, Lilongwe and Mzuzu.
Confirmation of availability of funds	Accounting Officer  Finance Office	No evidence of confirmation of availability of funds	Blantyre, Lilongwe and Mzuzu.
Review of procurement method	IPC	No evidence of specifications reviews.  No evidence of pre-bid meetings conducted to enhance specifications	Blantyre, Lilongwe and Mzuzu.
Review of procurement methods	IPC	This was ignored	Blantyre, Lilongwe and Mzuzu.
Review of evaluation criteria	PU  IPC  User department	No reviews were undertaken. The evaluation criteria are arbitrarily determined by the PU	Blantyre, Lilongwe and Mzuzu.
Review of potential supply	PU  User	Evidence of review of supply market being undertaken was available. However, it is	Blantyre, Lilongwe and Mzuzu.

markets	department  ODPP	abused where use of RfQ method is used. Very few suppliers are being considered for quotations hence competition is reduced. Poor market research as they rely on list of suppliers from the ODPP. This led to selecting to poor suppliers.	
Procurement method approval	IPC  PU	Ignored by all councils	Blantyre, Lilongwe and Mzuzu.
Preparation of bid documents	PU	Standard bid documents not used.  Difficult to verify evaluation criteria.  Difficult to know type of evaluation method selected due to absence of bidding documents.	Blantyre, Lilongwe and Mzuzu.
Preparation of bidding documents – terms and conditions.	PU	General terms and condition set by ODPP. But many feel they are set in favour of suppliers,  This was the catalyst for exorbitant prices.	Blantyre, Lilongwe and Mzuzu.
Approval of bidding documents	IPC	No evidence at all. PUs uses the bidding documents without prior approval by the committee.	Blantyre, Lilongwe and Mzuzu.
Advertisement and invitation of bids	PU	There was a great misunderstanding; some thresholds needing advertisement were being procured using quotation without prior approval from ODPP. Where claims were made that bidding was open,	Blantyre, Lilongwe and Mzuzu.

		there was no evidence of advertisements on file.	
Receipt and bid opening	IPC and PU	Poor record management.	Blantyre, Lilongwe and Mzuzu.
Evaluation of bids	PU, UD, and IPC	Detailed bid evaluation is conducted based on murky criteria creating chances for abuse. In some cases, criteria used was different from predetermined ones. No evidence that the evaluation reports were approved by the IPC.	Blantyre, Lilongwe and Mzuzu.
Review of evaluation reports	IPC	The IPC was approving procurements based on quotations that were not evaluated. IPC usurped powers of the adhoc evaluation team.	Blantyre, Lilongwe and Mzuzu.
Contract award	Controlling Officer	No evidence of contract notices to winning bidders.	Blantyre, Lilongwe and Mzuzu.
Contract signing	Controlling Officer	The controlling officers signed no purchase orders. However, there was no evidence of debriefing to losing suppliers	Blantyre, Lilongwe and Mzuzu.
Contract Administration and Monitoring	PU and UD	Some contracts were given without signed contracts.	Blantyre, Lilongwe and Mzuzu.
Payments	Controlling Officer	No evidence about suppliers having been paid. This created the risk of councils losing money through interest charges where payments were delayed.	Blantyre, Lilongwe and Mzuzu.

The above table revealed that public procurement is faced with problems across the entire cycle. This is in conformity with the observations by O’Neil, et.al, (2014) that established that in Malawi, public procurement in councils is confronted by massive corruption, although he



did not pinpoint the exact area. In addition to inferred corruption, this study found out that lack of proper structural alignment of the procurement function is also one of the many problems that lead to noncompliance. It will not be surprising to see many suppliers protesting for their bids performance.

**Table 4.6 Summarised effects of non-compliance with the PPPs**

Main area	Key indicator	Main reasons	Effects
Organizational alignment, culture leadership and management systems	Effectiveness of leadership	<p>Poor alignment of procurement function.</p> <p>Poor training programmes for procurement staff and IPC members.</p> <p>No capacity to carry out internal procurement audits.</p> <p>Poor record keeping.</p> <p>ODPP limited in terms of capacity to train PEs.</p>	<p>Poor understanding of PPPs</p> <p>Fraud and corruption cannot be detected</p> <p>Lack of transparency and accountability</p> <p>Increased level of non-compliance.</p>
	Human Resource Development	<p>Procurement staff in place without procurement qualifications</p> <p>Internal auditors in place without training in procurement</p> <p>No evaluation of staff performance in procurement</p>	<p>Risk of loss of resources due to wrong procurement</p> <p>Fraud and corruption cannot be detected.</p> <p>Same problems recur</p>
	Monitoring and Control systems	<p>No proper payment systems for contracts</p> <p>No procurement transaction captured in cash budgets</p> <p>No quality control mechanisms</p>	<p>Suppliers paid twice</p> <p>Loss of funds through interest on late payments</p> <p>Government cash-flow pressured</p> <p>Poor supplies are accepted</p>
	Complaints system and	No proper fairness and transparency resolution mechanisms in place for cases	Many court cases due to unfair treatments

	structure	established within the legal system.	
Information and communication	Procurement information searching and dissemination	Lack of awareness to use procurement websites, procurement internal notice boards and newspapers  Lack of capacity to use procurement information dissemination systems.	Few suppliers participate in tenders  Councils buy at high prices
	Interaction with the marketplace	Lack of knowledge of the market place  Lack of interaction with all procurement stakeholders	Few suppliers participate in tenders  Lack of trust in procurement process
Procurement processes	Procurement planning	Lack of knowledge to define procurement plans  Lack of knowledge to publicise procurement plans	Haphazard procurement leading to loss of money.
	Procurement publicity	Lack for use of OTs  Lack of ODPP website for entities to send placement information  Lack of internal notice boards	Poor feedback  Many stakeholders not aware about procurements  Loss of money
	Bid preparation and invitation	Lack of understanding on how to use SBDs  Lack of clear evaluation criteria in bid documents  Lack of specific bid opening date and time	Loss of money through wrong bids  Bidders protest during contract award stage  Cancellation of bids
	Submission, opening and evaluation of bids	Lack of clear date, time, and venue for bid submission  Lack of date, time and venue for bid opening  Lack of minutes for bid opening	No transparency

	Award of contracts	<p>Lack of notice of contract award</p> <p>Lack of public notice for contracts awarded</p> <p>Lack of knowledge to debrief the losers.</p>	<p>Transparency compromised</p> <p>Suppliers make same mistakes</p>
Contract administration	Project planning and mobilisation	<p>Lack of works programmes from contractors</p> <p>Taking advance payments on very small projects</p>	<p>Projects managed haphazardly</p> <p>Loss of money through uncompleted projects</p>
	Expediting and supervising contract implementation	<p>Lack of project monitoring</p> <p>Lack of project operations reports</p> <p>Lack of analysis of works versus actual works</p>	<p>Projects performance not properly known</p> <p>Projects completed outside agreed delivery period</p> <p>Loss of money through fraud</p>
	Inspection of procurements and stock control	<p>Lack of handover certificates</p> <p>Lack of completion or delivery reports</p> <p>Lack of delivery notes and GRNs</p>	<p>Loss of money through liquidated damages</p> <p>Loss of money through double payments</p>

From tables 4.3 and 4.4, it is easy to deduce that compliance remains a challenge in all the councils. In spite of the existence of the PPA (2003), city councils are not able to comply with its provisions partly because some of the provisions are vague. For example, the PPA (2003) mandates the IPC to open bids, examine, evaluate and compare bids. This function is contrary to the overall mandate of the IPC that it should approve the evaluation and make comparison of the bids. In essence, the law is allowing the IPC to approve its own decisions. The IPC becomes prosecutor and judge at the same time.

### 4.3 Findings and analysis of case studies

The biggest challenge in the above case studies including the ODPP is the inability to identify the reasons that make these councils fail to comply. Besides, the reports we based our study might have been produced in a hurry. In order to reduce these concerns, real time investigations were conducted in each of the case studies. The main objective was to find out why there was high level of non-compliance. The data gathered was then analysed using GT in which line by line detailed coding was conducted to identify the benefits of using the procurement function. The

open coding and axial coding phases of GT analysis have resulted in identifying a total of 10 factors influencing non-compliance with procurement procedures in city councils as shown in table 4.7 below.

These factors directly provided responses to the first question of this study. Based on each of the identified factors, a number of concepts were described. It is particularly the concepts that represent the base element for each factor. The strategies described how each factor influenced compliance level. The strategies for each factor represent the initiatives, techniques, measures, activities, and tactics that were followed to manage the PPPs.

To address the second question, the concepts and characteristics have been properly aligned to each of the factors of public procurement.

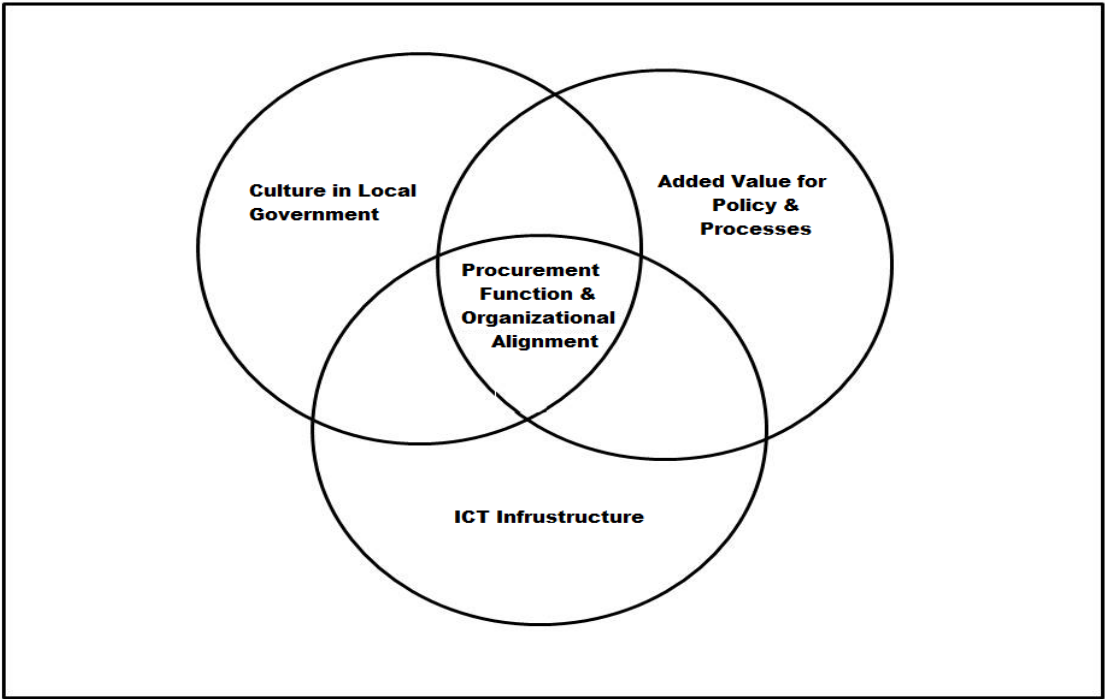
This study explored the experiences of the procurement function where members of the IPC make decisions on what, how, where, when and why to buy. Three IPC members were selected as participants namely, Procurement Officer (PO), DoF and CEO. Through the interviews, the participants shared their experiences on the reasons for noncompliance. The chapter below will present the findings of this study based on these interviews. It will also propose the framework to be used by in procurement matters. The chapter will also present the findings from the analysis of the data collected from the other sources. The findings will be discussed alongside current principles of the PPA, (2003) and the PPR, (2004). This will also consider the reviewed literature to generate a balanced legal framework.

The factors affecting the council's ability to comply with the PPPs identified during coding phases will be regrouped into core categories based on the similarities (Strauss & Corbin, 1998). The creation of such categories was based on selective coding of the GT. However, it is important to point out that the analysis of data was done simultaneously with other steps. It actually began with data gathering. Interviews were recorded using notes and tape-recorders. Notes were written immediately after each interview. This was followed by transcription of the interviews. The process of transcribing was lengthy and prolonged the analysis. The analysis identified 10 factors that were later amalgamated to produce four main categories as follows: procurement function and organisational alignment; culture in the LG; Added value for policy, and ICT infrastructure. The main categories and how they relate were also presented in table 4.7 below. The 10 factors were then analysed as sub-items of the main categories. The main categories aided understanding of the findings of this study while guiding the development of the framework for use in the public procurement entities.

**Table 4.7: The four main categories with corresponding public procurement factors**

<b>Core Categories</b> (from selective coding)	<b>Constituent Procurement factors</b> (from open and axial codes)
Procurement function and organizational alignment	Clear and ethical executive Leadership (F1). Procurement function to operate strategically (F2). Training of procurement professionals (F3).
Added Value for Policy and processes	Added value (F4). Transparency (F5). Accountability (F6).
Culture in the LG	Culture of leadership in procurement function (F7). Knowledge about accessibility to procurement (F8). Reward system for procurement officers (F9)
ICT infrastructure	Information technology (F10)

**Figure 4.1: A Thematic representation of the impact of the identified codes**



**4.3.1 Procurement function and organisational alignment**

This study revealed that the procurement function has steadily evolved from administrative to strategic. These functions have served as the driving force for public expenditure. This core category was also the hub of operations in the PPPs. However, almost all the respondents in the three councils stated that the procurement activity had reached strategic level, and as such, it is key in the management systems and must be re-aligned with other functions for it to be effective. The following table presents the substantiating codes for the factor related to this main category.

**4.3.1.1 Clear and ethical executive Leadership (F1)**

**Table 4.8 Clear and ethical executive leadership**

**Substantial codes related to clear and ethical executive leadership.**

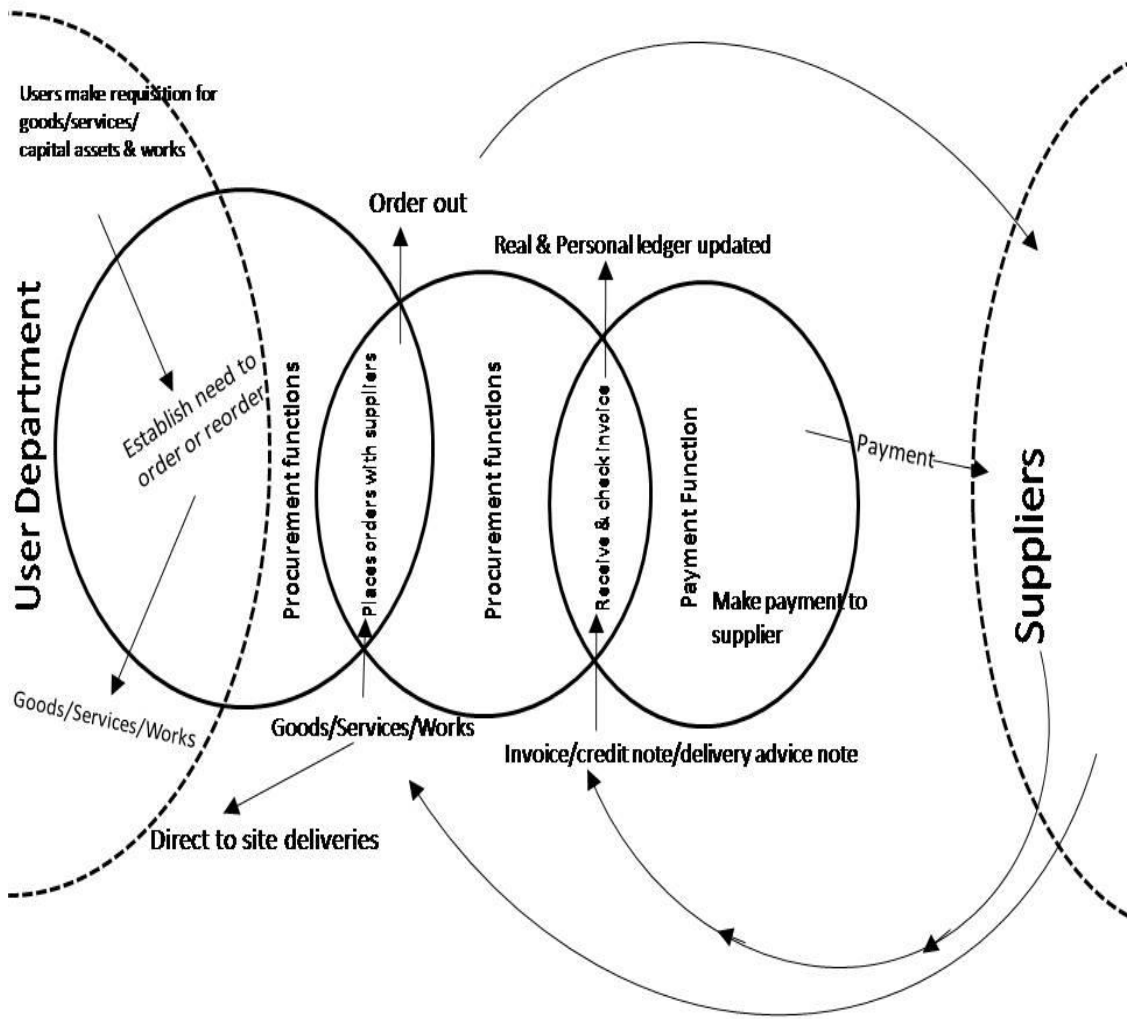
“Almost all the councils have specific PUs that handle all procurements. This is a statutory requirement”. (LCC 3.3)
“I believe that most of the PUs operate differently because of different levels of the people in the IPC and level of those in the PU”. (BCC 2.3)
“There has been lack of clarity in terms of the handling of the entire supply chain in that there is a lot of interference. We have often confused those that are doing the purchasing with those that are doing materials management”. (LCC 3.4)
“We need to review the law as a matter of urgency so that we can come up with a law that covers the entire supply chain. The part that refers to goods, works and services has been covered quite well, but processes like materials management, distribution, and logistics have not been adequately covered”. (LCC 3.5)
In the proposed law, the head of PU should be put at Director level, and no two ways about this”. (LCC 1.7)
“I believe that the public sector will continue to be provided with awareness by now. The ODPP should put strategies that will help align procurement function with what city councils procure”. (BBC2.4)
“Could be M6 but if you look at the amount of work this procurement unit is doing, considering three quarters of budget spent through it, it is necessary for this council to establish its PU to level of M4 post so that this officer is a high rank officer within the council hierarchy, but that can only be done when you have an establishment”. (LCC9.2).

Interestingly, non-procurement professionals interviewed were not able to distinguish between strategic activities and operational activities of the procurement function. Alignment in this study meant putting procurement function at the same level with DoF, DoP and or DoA. The procurement professionals, unlike the non-professionals, were able to understand that procurement practices were complicated. At council level, the procurement function comprised

of user sections, procurement office and the IPC. The roles of these offices were clearly explained in chapter three. However, much as procurement personnel were responsible for procurement operations, most of the documents analysed showed that some procurements by-passed the procurement authorities. It was clear that the procurement officers made sure that all procurements complied with the PPRs and got involved in procurements even though things did not work. The procurement officers were also responsible for the interpretation of the PPA based on the items to be bought. Whether their interpretation was followed or not is another issue given the so many anomalies discovered during this study. Even though this has been the case, recent studies by Msaka, (2009); Baily, et.al, (2008) and Schiele, (2011) have established that meaningful involvement of procurement professionals; add a lot of value. These findings are similar to what Jones, (2004) found. The following figure presents the analysis of the relationships among user department, procurement function, the IPCs and department of finance (Jones, 2004).

The figure 4.2 below is a good example of how the function of procurement operates. The processes from initiation of a need, supplier identification, contract administration and payment to the supplier are well defined.

**Figure 4.2: Frameworks for procurement function**



**Figure 4.2 : Frameworks for procurement function**

**Source: Jones, P. 2004**

4.3.1.2      **Procurement function to operate strategically (F2)**

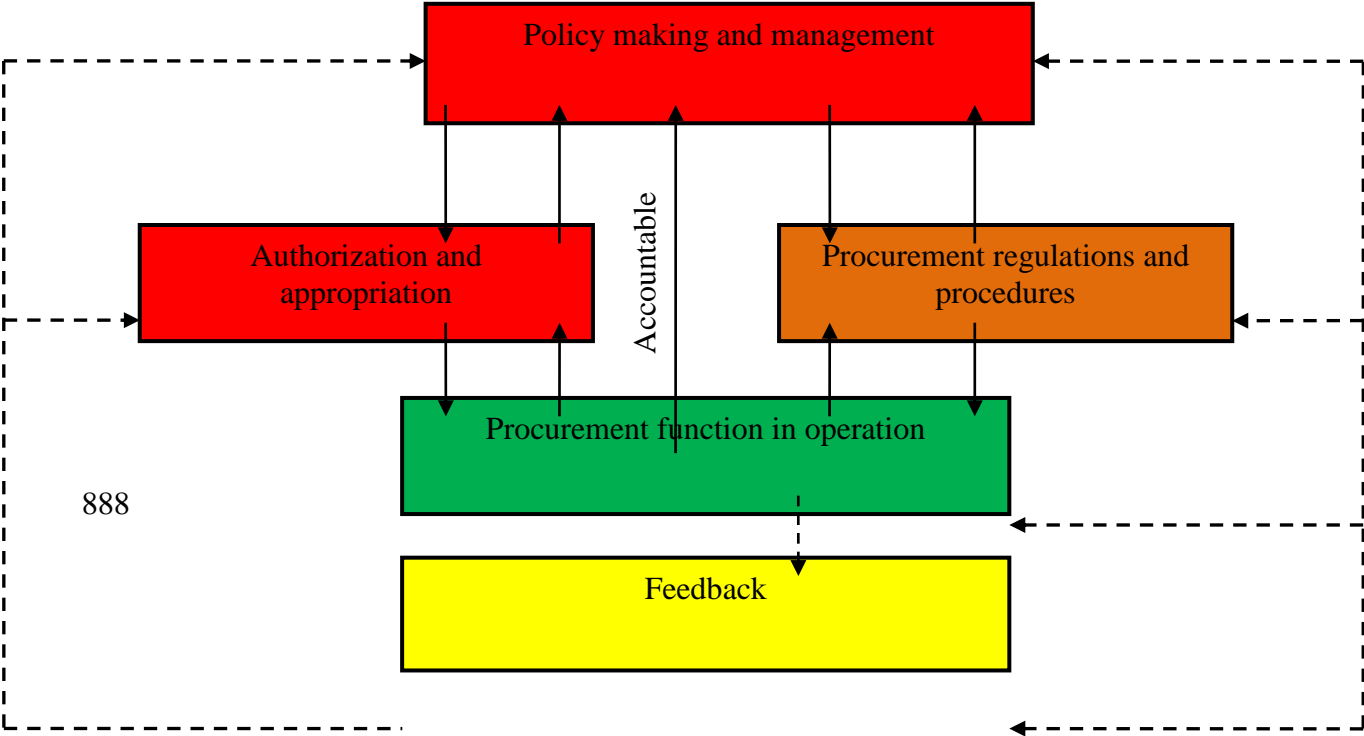
Many successful strategies have been identified to address the structural significance. To observe best procurement practice, based on substantiating concepts and codes from data analysis, a brief discussion is as follows:

There was need for developing a common strategy that needs a clear combination of jobs and roles of the procurement function.

Several challenges exist in building up an effective organisational structure for procurement function. While procurement function is naturally multidisciplinary and requires all stakeholders, it also ought to be autonomous when discharging its duties. The conflicts between the LGA (1998) and the PPA (2003) ought to be balanced. Usually, good laws are those that work alongside others. Because of knowledge gaps in procurement issues, civic education in public institutions should be prioritised. In all the city councils, all respondents except CPOs and POs did not understand procurement processes.

Building a practical procurement function was an effective long-term strategy to maximise the benefits of the function. Figure 4.3 below presents the source of public procurement structure. The figure also guides procurement function in the public sector.

**Figure 4.3 Structure of procurement Function**



**Figure 4.3: Procurement function to operate strategically (F2)**

**Source: ODPP**

Procurement organisational structure and responsibilities are determined by legislature. It is for this reason that such structures need to be complied with. The local councils primarily need to influence the public procurement systems through decent laws. The following table presents the substantiating codes for the structure of the procurement function.



**Table 4.9: Procurement function to operate strategically (F2)**

Substantial responses for structural change of procurement function in city councils

“The head of procurement should be someone who has pre-requisite qualifications for one to be able to manage procurement”. (LCC1.0)
“If we are going to have board of engineers, are we going to have the head of engineers anyhow? These are some of the things to be looked at when devising the strategic structure of procurement”. (LCC1. 1)
“The other emphasis would be on the membership of the evaluation team for bids so that you have only professional input. I believe that the evaluation process should be left to the experts”. (LCC1.2)
"The law requires that the Chairperson of the IPC must be the CEO. The question is, how transparent would the committee be with the CEO as head of the IPC"? (LCC 1.3)
“Currently things are coming up, but you know for a long time, the procurement profession has been marginalised. It is now that ministries are properly upgrading headship of procurement units. This was not there before”. (LCC 1.4)
“The public sector needs to be provided with awareness information by the ODPP about the need for proper alignment of procurement function”. (BCC 1.0)
“However here at ...the PU is under the department of administration. Therefore, the procurement officer is supposed to report to the DoA. The function is not independent”. (BCC 1.1)
“Here...., the advisory role of the CPOs cannot work because the Chairperson is chosen by the CEO”. (LCC 2.0)
““At the moment, am the PO in acting capacity. However, the structure does not comply with the PPA”. (LCC 2.1)

**Properties**

1. Development of cross-functional procurement function in councils needs deliberate understanding roles the PO plays in value adding to council’s resources by controlling officer.
2. Several challenges exist in coming up with an effective organisational structure for procurement units due to lack of knowledge about legal requirements. The reasons for this include that many stakeholders have interests in the procurement job.
3. Due to obvious complex nature of the PPPs, there is still a lot of disagreements about the general objectives and values of the procurement function.
4. Exclusive and decentralisation of procurement activities to the very grassroots in each council only managed to add cost rather than value. A good number of procurement

officers in the councils had pre-requisite qualifications in procurement. These people however needed to be the lead buyers in all procurement projects.

5. Procurement function is heavily built on processes and people as observed by Murray, (2007). There are different people who play different roles contributing to the success or failure of procurement processes. In the councils, these people can have a negative bearing on compliance. This can be a result when the procurement function is not properly aligned. The current structure which requires that the procurement function report to the DoA is not health.

### **Specific procurement strategies**

1. Establishing lead buying teams at the grassroots in the councils where procurement projects are executed. More so, grassroots people are not the employees of the councils and therefore it is difficult for procurers from councils to lead these people. After all, doing so means violating the LGA, (1998) that was meant to empower the locals. That aside, as noted in the literature review, letting these people go it alone can also breed serious fraud, corruption and nonprocedural procurements. The procurement function is not simply an organisational function, it is competence-based and procurers fully understand the business environment they operate in.
2. The procurement function should be able to play strategic and coordinating roles. The respective user departments should leverage most of the operational aspects of procurement activities. What we make here is that the procurement function and the grassroots people should be decentralised. Lead buyers should simply provide technical advice. This can reduce the chances of occurrence of maverick buying.
3. While the procurement function may revolve around the central function, the overall cost of such purchases is allocated to respective user departments. Similarly, user departments and cost centre managers should be well informed on their role in procurements since they control their budgets.
4. One of the long-term tasks of procurement function is to ensure that goods, works and services are acquired at VFM and maintaining defined specifications. This can only be achieved when user departments are able to understand their needs. Likewise, they should be able to communicate to procurement function for necessary processes.
5. The public procurement management approach often entails the need to change culture towards procurement practices. In addition to the organisational and cultural conditions, its success depends on the attributes and skills of the procurement professionals.
6. Integrating the roles of procurement function in existing functional jobs is a proven strategy for the success of public procurement management among all departments.

#### **4.3.1.3 Training of procurement professionals (F3)**

The accessibility to training is observed as an important aspect of cultural ingredient influencing the way procurement is undertaken. In all the councils studied, there was a silo of knowledge distribution. The procurers had access to relevant information about public procurements while other employees did not. For example, some of the respondents mentioned that many employees

were interested in buying their own requirements due to lack of knowledge. This then influenced non-compliance. The table below presents the substantiating concepts and codes for this factor. The following sub-sections enumerate the factorial properties and best procurement practices.

**Table 4.10      Training of procurement professional**

<b>Substantiating concepts</b>
Levels of trained professionals affect transparency, accountability and confidentiality.
<b>Substantiating codes</b>
“What happens is that we get a lot of requisitions from users, and at each point, they want all their requirements to be purchased without any attention to their approved budget”. (BCC 4.15)
“Whether the IPCs or not, you need to acquire these items immediately, I have to use them as a matter of urgency”. (BCC 4.16)
“The users out there believe that procurement function means everything that you can acquire, pay for the delivered items. The hierarchal process that you need for authorisation at each level of execution is a waste of time”. (BCC 4.17
“For this laptop, you can just go to the supplier who makes my furniture; you will get it at cheap cost. The problem with you is that you always want to buy from expensive suppliers and leave out those that are cheap”. (LCC 4.9)
“The fact that public procurement has been in operation for almost a decade now, does not mean that there are no users who would want to specify their requirements, solicit quotations and award contracts to suppliers”. (LCC 4.10)
“The suppliers that are involved know very little about procurements.” (LCC 4.11)
“Many bidders are limited in various issues; inadequate capacity to appreciate the standard bidding documents, poor access to bidding information and insufficient technical skills to be competitive in the bidding process”. LCC 4.12
Sometimes you carry out an operation thinking you are complying with the regulations but it is only when you have been told that you did not comply. (BCC4.8)
“I should emphasise 'word shortcuts' if you want to make shortcuts, you may have problems. In such cases, these happen only during emergency procurements though we still seek consent of the ODPP. Mostly these come about when dealing with procurements involving items for the president and his vice. (BCC4.2)
But I understand that following procedures presented a big challenge because some entities do not have CPOs and POs to legitimise procurements.” (BCC4.4)
“So without complying with the PPPs, it means that procurement process is in a mess and there is no value for such procurement.” (BCC4.5)

## **Characteristics**

1. Providing procurement professionals with adequate training in the PPPs is a primary necessity in dealing with maverick buying.
2. The major limitation such as lack of good-will by top management to understand the training needs of procurement professional substantially complicate the access to training by employees.
3. Providing training to stakeholders so that they understand the objectives of public procurement is essential.
4. There is a problem of accurate measurement since procurement is a multidisciplinary domain, and its performance depends on togetherness.
5. The general business strategy lacks alignment of procurement function to the same level with other functions.

## **Specific strategies for this factor**

1. Council management should provide training to personnel in procurement to enhance the understanding of the PPPs.
2. Strategies should be put in place targeting those people involved in policy-making and implementation of the procurement operations.
3. It is clear that the concept of VFM does not come by accident but rather by having well-trained and educated staff. Such members of staff are able to create cross-functional teams that consequently improve the decision-making power of the organisation.
4. Given the increase in the education levels of procurement personnel, the importance of the procurement function has also increased. This means that the function is able to devise more sophisticated strategies in the delivery of its services than it did before. At present, the councils do not have any training plans for procurement professionals.
5. The top management should deliberately come up with a policy that should put the procurement function at the same senior level with other functions
6. While Malawi has not trained its staff to high levels; in Uganda, LG has trained all procurement professionals and promoted them to senior management levels (Obanda, 2010). This has hugely increased the levels of procurement compliance.

Thus, training of procurement professionals lead to increased skills and knowledge for the application of the PPRs, which then enhances compliance levels with the PPPs.

### **4.3.2 Added value for policy and processes**

The added value realised from involving procurement professionals need not be over-emphasised. The study has shown that by involving professionals, whose main domain is procurement, costs and services surpassed the expected quality. However, this assertion lacked published records and hence calls for further investigations. In many cases, procurement professionals have difficulties justifying values realised from concluded purchases. The main reason is that all the councils

studied had no any procurement plans and pre-estimated market prices. The following section presents the substantiating concepts and codes for VFM.

**4.3.2.1        Added value (F4)**

The addition of value is one of the most difficult and complex one. This factor is significant in influencing public procurement attainment of VFM. The procurement officers have difficulties to show tangible value from procurement processes. Table 4.11 below presents the substantiating concepts and codes for this factor.

**Table 4.11     Added value: substantiating concepts and codes**

<b>Substantiating concepts</b>
The benefits realised from strategic procurement, are cost-saving, risk reduction, compliance, public image, read reports.
<b>Substantiating codes</b>
“So when you follow the procurement process from point A to Z, you find out that the procurement function breeds VFM. It is good to follow them because you are protecting the institution”. (BCC 4.0)
“Following regulations, does not help in emergency purchases. Moreover, it does take long to complete the process, may be just follow the thresholds. For example, we want to do a purchase of MK15, million, we seek the approval of the ODPP but anything below that, we do not”. (LCC 4.0)
“And if you want to buy a vehicle within 6 weeks, you need to make plans when you present your evaluation for any procurement. So if you follow procurement plans, you will comply with the PPPs and get VFM”. (BCC 4.1)
“I should emphasise 'word shortcuts' if you want to make shortcuts, you may have problems. In such cases, these happen only during emergency procurements though we still seek consent of the ODPP. Mostly these come about when dealing with procurements involving items for the president and his vice”. (BCC 4.2).
Following regulations, does not help in emergency purchases. Moreover, it does take long to complete the process, may be just follow the thresholds. For example, we want to do a purchase of M15, million, we seek the approval of the ODPP but anything below that, we do not. (LCC4.0)
“And if you want to buy a vehicle within 6 weeks, you need to make plans when you present your evaluation for any procurement. So, if you follow procurement plans, you will comply with the PPPs and in the process, you get VFM”. (BCC4.1)
“But I understand that following procedures presented a big challenge because some entities do not have CPOs and POs to legitimise procurements.” (BCC4.3)

<p>“So, without complying with the PPPs, it means that procurement process is in a mess and there is no VFM.” (BCC 4.4)</p>
<p>“At this ... because we spend taxpayers’ money, we follow the PPPs so that there is accountability and transparency.’’ (BCC 4.5)</p>
<p>“Suppliers have to comply with the PPPs to be legible. Better prices do not mean the supplier will win the contract. Also, SMEs usually charge prohibitive prices unlike larger conglomerates. This puts them at a disadvantage. May be the ODPP should look into this so that they too are considered to promote them.’’ (BCC 4.6)</p>

**Properties**

1. The failure of the procurement function to document success stories about VFM from procurement processes is one of the criticisms against such processes. Other senior members of the councils have taken an alternative stance in order to frustrate the procurement function.
2. Some of the procurements concluded are able to show the tangible short-terms results. However, most of the benefits of compliance are achieved in the long-term. In this regard, persisting that procurement should show short-term benefit can disturb the objectives of the function.
3. Due to the nature of the procurement function, it is not easy to show the “returns on investment” as the activities are cross-functional. The efforts by the procurement function often result in widespread benefits to the organisation. This creates challenges for the procurement team to show tangible business benefits for each department.
4. Creating centralised procurement function at the LG secretariat can be detrimental in the end. They can operate against the principles of decentralisation and this might lead to job losses during turbulent times.

**Strategies**

Much as it is not easy to realise short-term values from procurement initiatives, the inability to understand the long-term values may force the councils to engage in illegal procurements. However, the following strategies need to be employed:

1. The procurement function should clearly communicate its processes and values gained from compliance. It is important for the top management to understand how value is achieved when the procurement function is respected.
2. The procurement function should also be able to project their plans in terms of long-run benefits such as improved compliance levels, competitive advantage, improved public image, improved communication and customer satisfaction.
3. The planning department should also be able to show some short-term benefits wherever possible and treat them as added advantages. These may include cost-savings on

- purchases based on RFQs; time savings realised from framework agreements and satisfied users.
4. The ODPP should likewise, deliberately avoid building empires and centralised procurements at the LG. Instead, decentralised procurement units should be formed in conjunction with the LG Secretariat.
  5. The strategy should define the risks of not having procurement units managed by competent qualified specialists. Risks such as non-compliance, maverick buying, and lack of progression on the ladder of procurement thresholds ought to be book-marked. This strategy can act as a deterring factor on short-term values, which can be gained through adversarial purchases. Moreover, introduction of baseline surveys on satisfaction of main stakeholders may serve as useful indicator for showing added benefits. By and large, involvement of procurement specialists in the processes is one of common features of best procurement practices by all public entities.

**Specific strategies for this factor**

One of the most important focuses of public procurement regime is not limited to achieving high-quality services at the lowest possible price but also the following:

- Legal and regulatory compliance
- Public perceptions of ethical behaviour
- Public perception of fairness and justice
- Political and economic considerations about the use of public money

This means that it is not enough for procurement officers to claim that they have attained low prices, VFM and quality without demonstrating that the process for doing so was fair and just.

**4.3.2.2 Transparency (F5)**

Transparency in this regards refers to the ability to know and understand the actual means by which contracts are awarded. This needs information that is sufficient to allow the average participant know how the system works (Obanda, 2010). Transparency also means that laws, regulations, institutions, processes, plans and decisions are accessed by the publics. Table 4.11 presents the substantiating factors for this code.

**Table 4.12 Transparency-substantiating codes**

<p>“We have interacted with professionals and we have followed the procurement regulation. Actually, we have been covered by the procurement regulations. For example, if you want to procure a certain item, we may be wrong in specification, but we may not be wrong in procedure. ODPP rescues us by giving a <b>“no objection”</b>. However, you find out that the ODPP only monitors us from a distance, and do rely on the procurement officers of this council”. (LCC 9.0)</p>
<p>“Procurement is formulated by the ODPP from the PPA, so councils operate within the legal framework. We also have the PPA, PPRs that guide our activities. For example, the ODPP gives us thresholds. If we are purchasing anything below MK50, 000.00, we do not need to meet as IPC</p>

but we can report to IPC about the transaction. Sometimes, we have a committee to discuss this amount; but if the amounts are big, we need to tender”. (LCC 9.1)
“You cannot just go and collect quotations. However, it must be a tendered. Councils do not have own PPRs apart from the ones the ODPP provides”. (LCC 9.3)
“What I have seen is that PPPs are too red-taped because you have to follow every step. So it takes a long. The council sometimes buy VIP materials for its meetings and you are asked to buy such materials within the shortest time. Since the ODPP has another method that can be used for acquisitions, we follow that. However, RFQ also takes time because it expects suppliers to respond within seven days. And, if the items are urgent, RFQ does not work’’. (BCC 9.16)
“Decentralisation of procurements is very slow. There is a lot of consultation between, buyers and suppliers during tendering process. Since our thresholds are low, we always have seek authorisation from the ODPP and it takes a lot of time”. (MCC9.1)
“We have been doing well and this was also reflected in the national LG audit which rated us at around 98% though there are a lot of political jigsaws in the city councils especially execution of the CDF (BBC. 9.2)
“ Here we sometimes buy VIP materials for meetings within a very short time Making you bypass the PPPs.” (LCC 9.1)
The ODPP allows us to use RFQ when buying urgent things though RFQ also takes some time.” (LCC 9.2)
“So, if a thing is required the soonest, RFQ cannot work and that becomes a hurdle. (LCC 9.3)
“Following PPPs is too much bureaucratic and does take long.” (LCC 9.0)
“We receive CDF which attracts severe pressure from MPs who also violate PPPs hence reducing compliance and VFM.”(BBC. 9.3)
“Even the ODPP is aware of this political abuse of the CDF and has been cited by several audit reports.” (BBC. 9.4)

**Properties**

1. Transparency makes visible what would have otherwise been concealed and allows the actions of the agents to be verified. Where the actions of the agent can be verified, corruption is minimal.
2. Clear information on various steps involved in the procurement process may enable potential suppliers to make informed decision about whether to bid or not, and how to improve their bids for them to be responsive.



3. Transparency provides a forum for giving feedback on the outcomes of any award of the contracts. This helps bidders prepare well for future bids, and this contributes to increased competition and budgetary savings for government.

**Specific public procurement strategies**

1. Accessible: clear, time bound structured and clear deadlines for bids submission.
2. Consistent: uniform rules for all bidders, no tampering with contract terms for all suppliers, and communication through published reports.
3. Objective: a competitive environment for bidders is fostered by allowing as many bidders as possible and ensuring that PPPs are based on objective measurement and evaluation criteria and no influence from within the procurers.

**4.3.2.3 Accountability (F6)**

The cornerstone of a well-functioning public procurement system operating the availability of control and audit mechanisms to foster compliance. Accountability means that public institutions must be accountable for the correct execution of tasks. Records justifying all decisions should be maintained. Table 4.12 presents the substantiating codes for this factor.

**Table 4.13 Accountability-substantiating codes**

<p>“The first one was done by the consultant who was engaged by ODPP in 2010 but it was rated none auditable. That came because the ODPP did not tell the institutions that an auditor was coming.” (LCC 4.16)</p>
<p>After that audit, came another one by ODPP. Then we were rated better since they found the required data. We also had another audit on the CDF although the results are not yet out. Currently we are also being audited; this may not be procurement audit but government audit”. (LCC 4.18)</p>
<p>“At the moment, procurement function is under the DoA, so all disciplinary cases are rooted through him. The chairperson of IPC is the CEO of this council. We only work with the PU in making resolutions for procurements. We cannot the PU even when they error. In this case the DoA disciplines them”. (BCC 2.1)</p>
<p>“We have been doing quite well and this was also reflected in the LG audit which rated us at 98%. However, political interference with the CDF is our major obstacle.” (BCC 9.2)</p>
<p>“Suppliers are screened and this reduces corrupt practices.” (MCC5.2)</p>
<p>“I feel there are many benefits for the procurers since we have too many suppliers who can compete for better prices and services although that increases our job especially during bid evaluation and selection.” (MCC5.3)</p>
<p>“Therefore, I look at that way of doing things as more professional than it was managed in the past when procurement was under the CTB.” (MCC5.4)</p>

The perception of those that were involved in procurement when the law was there is that PUs are evil and waste resources.’’ (MCC6.0)
“People should learn to respect the Law and procurers should help them understand the PPPs.’’ (BCC6.0)
“The procurement laws have enhanced the understanding of the public procurement.’’ (BCC6.1)
“After some time, people understood but as council what the CEO did was to allow the public procurement implementers to familiarize with the procurement laws and hence asked the people from ODPP to conduct some training for the stakeholders.’’ (BCC6.2)
“As a procuring entity we are using tax payers money and the owners must know how their money is spent. Yet we sometimes do not inform them how e buy and spend their money.’’(BCC6.3)
“However, many people think that PPPs are time wasters unlike when departments could do the purchases themselves.’’ (MCC6.0)
“They do not like procurement procedures because they feel these procedures are unnecessarily long.’’ (MCC6.1)
“They want to buy ten bags of lime to be use at the stadium but in reality, only four bags can be enough. But if they procure it themselves, they would still need 10 bags’’. (MCC6.2)
“So, using procurers would save some money. In this regard PPPs add VFM for the government.’’ (MCC6.3)
“They further do not like the procedures because of vested interest.’’ (MCC6.4)
“In the previous regime they benefitted from procurement by becoming suppliers themselves and this bred a lot of fraud.’’(MCCA6.5)

**Properties**

- 1. Principles of sound procurement system is that it must be based on rules which guide the different procurement levels and when to use RFQ, NCB and OTs.
- 2. Public procurement laws and policies must enhance fairness during and after bidding.
- 3. PPRs must provide for the standard procedures to be used in the award of contracts. The regulations should therefore help increase competition among suppliers.
- 4. PPRs provide a framework for enhancing transparency. However, regulations may become outdated and may not play the intended purposes.

Specific procurement strategies

- 1. **Separation of function:** internal controls in PPPs are based on the separation of functions. For example, users, procurement officers, and budget managers should adhere to their roles to avoid blame-games when things get wrong.
- 2. **Efficiency and control:** the underlying principle in balancing efficiency and control is that officers need to be accountable. They must therefore be responsible for failing to be accountable, effective, and efficient in their transactions.
- 3. **Deviation from standing orders:** the law should punish any officer who departs from the policies and in the course injure the firm or suppliers. This will enhance VFM and compliance.
- 4. **Amendment of outdated laws:** With time, some rules become obsolete. Such rules should immediately be repealed.

4.3.3 Culture in local government

The study has shown that culture is an important factor in the LG that affects compliance levels. Culture represents the organisation’s values, beliefs and deeply held assumptions that people import into the enterprise overtime (Gattorna, 2006). City councils have operated without the procurement function for long until 2003. This created a culture that cannot be easily replaced overnight. This culture has influenced the way they perceive the procurement function and how they position it in the organogram.

This study has revealed several factors that influence this culture. Factors such as leadership style, knowledge of the PPPs, IT infrastructure, and recruitment are some of them. This study, therefore, refers to “culture” as something that covers the way councils behave, perceive, and react to procurement departments. However, the study established that there is adverse behaviour towards the procurement function in all the councils. The conditions influencing such a culture are presented in table 4.13 below.

Table 4.14: Culture core categories: constituent factors and substantiating categories

<b>Constituent factors</b>
Leadership styles, IT infrastructure, knowledge accessibility, compliance levels, impact of procedures
<b>Substantiating codes</b>
“Currently things are coming up, but procurement is a profession that has been marginalized in the public sector.” (LCC 9.0)
“It is only now that we see ministries properly ranking the heads of procurers to levels of senior managers such as the DoA otherwise, there was resistance to accept these people as being key in the councils.”

<p>“ Being a new profession, I believe that we have made strides, and hope that we can do better by properly aligning this function with other sections although some ministries still resist this view.”</p> <p>“ The mere fact that most of organizations now recognise the procurement function as being equally important as other departments in the councils shows that we are on track And their open room for improvement (LCC 9.1)</p>
<p>“No, not operational, am giving an example of this council, maybe other councils may have different structures, but our structures here in terms of reporting, do report to the chairman of IPC. When there are administrative issues, they report them to DoA, For procurement policy, they report to the CEO.” (LCC9.0)</p>
<p>“I indicated that the procurement officer in the council need to be ranked highly yet the council puts this person at either M7 or M6 which is lower than that of the DoA, DoP, DoF and alike and this makes him a toothless bull (LCC9.1)</p>
<p>“The PO maybe at M6 but looking at the nature of his job and considering that three quarters of budget are spent on purchases, it is necessary for the council to put the PO at M4 or higher but this can only be done if you have an establishment.” (LCC9.2)</p>
<p>“ Lack of established posts prevents procurement staff from being promoted to senior levels. (LCC9.3)</p>
<p>“The Chief Procurement Officer (CPO) reports to the DoA in terms of administrative arrangements. Nevertheless, he is secretary to the IPC and reports to the CEO and the ODPP.” (BCC 1.1)</p>
<p>“The tradition here is that all issues which have to do with procurement are done at procurement function level, but when it comes to presentation at IPC, the DoA is secretary. I attend such meetings as an invited member”. (MCC 3.3)</p>
<p>“So, you can see that PU is a function under the controlling officer who delegates it to the Chairperson of the committee.” (BCC 9.1)</p>
<p>“The first audit was done by the consultant in July 2010 together with the ODPP and we were rated non-auditable. This was so because the ODPP did not tell us that auditors were coming.” (LCCB 4.8)</p>
<p>“What happens is that we get a lot of requisitions from users who want their requirements the soonest even if their budgets cannot support the costs.” (BCC 4.15)</p>
<p>“Whether the IPCs or not, you need to acquire these items immediately, I have to use them as a matter of urgency.” (BCC 4.16)</p>
<p>“The users believe that procurement means everything that you can acquire, and pay for the deliverables without any third parties, committees and hierarchical processes. (BCCB4.17)</p>

**4.3.3.1            The culture of leadership in procurement (F7)**

This study revealed that in spite of a clear provision for procurement structure in the PPA (2003) (Ss10 & 11), the culture in the Local Government fail to respond to the PPRs. Procurement is still considered a second-class function reporting to other line departments. There is lack of political will from the CEOs to promote it. Procurement function is still handled in a traditional way and at a low level because its values are also questionable. The table below presents the substantiating concepts and codes for this factor followed by the factorial properties as observed during the study.

**Table 4.15 Leadership in procurement function**

<b>Substantial concepts</b>
<b>Leadership, role of procurement function, professional codes of conduct, reporting structure</b>
“The CPO should be someone who has pre-requisite qualifications for one to be able to manage procurement.” (LCC1.0)
“If we have a board of engineers, we need an engineer to head it, isn’t it? This then should also be the case with the procurement function.” (LCCA1. 1)
“Most organisations now recognise procurement function as a standalone entity which is as valuable as the other senior managers of the councils.” (LCC 9.1)
“Membership of the evaluation team should be made of procurement professionals so that we get professional input and output.” (LCCA1.2).
“The law requires that the chairperson of IPC must be the CEO of the council. The question is how transparent would such a committee be? Moreover, the CEO is not a professional in procurement and how can such a person offer guidance in a field that is much more technical?” (LCC1.3).
“We need to indicate how we are going to put people that can manage the whole system and add VFM”. (MCCB 3.7)
“While most of the posts have now been functional and have been aligned well, we still can do more. Moreover, the review team advised us, that now people have now began to accept this function and we can built on this development”. (BCCA 1.11)
“The PU is not fully developed in this institution. The officers do undertake both stores work and procurement work. We need to define it and separate its functions from stores functions.” (MCCC 3.4)
“The procurement function is under the DoA, and all disciplinary cases are handled by him. Thus, the procurement function is a parasite section.” (MCCA 4.8)
“The grade should be at M6 but if we look at the amount of work the PO does, the grade must be

higher than this. The council should establish its own PU whose head is at least at M4 grade but this is impossible unless there is an establishment. ” (LCC 9.2)
“The PU is under the department of administration. Therefore, the CPO is supposed to report to the DoA such that the function is parasitic to the DoA.” (BCCB 1.1)
“The advisory role of the CPOs cannot work because the CEO chooses the chairperson, who is exposed to interpretation of the PPA (2003) and procedures of procurement. (LCC2.0.)
“At the moment, I am the CPO in acting capacity. However, the structure does not comply with the PPA”. (LCC 2.1)

From the findings, it is clear that in the councils, cultural mis-alignment has a negative impact on performance of the procurers. It hinders their performance and creativity. Their visibility in the structure is not felt and this has made them get frustrated.

**Properties**

- 1. There is need for increased investment to the procurement function in order that its current level is upgraded to senior levels. This is possible if management accepts it.
- 2. The traditional structure of procurement function is not aligned with government legal framework. It is rigid and lacks empowerment of personnel, which affects compliance levels with the PPPs.
- 3. The personnel in procurement are well conversant with their job. Given a proper structure, they can help improve compliance levels.
- 4. In spite of its slow growth, the procurement function and its roles have been underestimated.
- 5. Cultural obstacles will still be there, nonetheless, the current review provides room for the promotion of desirable cultural changes that can then spur growth of the procurement function.

**Specific public procurement strategies**

- 1. The overall objective of the LG is to ensure the delivery of quality and cost-effective services to the electorate. This objective should include restructuring of procurement function.
- 2. The CEO of the councils should provide continuous investment towards the function considering its status and roles.
- 3. The leadership in procurement function should deliberately develop a culture of producing regular reports to enhance communication about the roles and contributions of the PU.
- 4. Directors of departments should be made aware about the characteristics of the function to promote compliance levels and general acceptance.
- 5. The commercial experience is that an entity of this nature, which is seen and measured through the lenses of commercial viability, is best recognised whenever there is strong evidence of its positive performance. The strategic procurement function embraces all

expenditures except payroll. In today’s business environments, the delivery of services is procured through contracts. Thus, the role of the procurer in managing contracts becomes crucial for the attainment of policy objectives.

Top management should deliberately make bylaws that will upgrade the procurement function. This should consider pegging the CPOs to the level of the senior managers such as the DoS, DoP and DoE. Elevating the procurement function to strategic management levels will increase compliance levels and bargaining powers.

**4.3.3.2        The knowledge about accessibility to procurement information (F8)**

Access to knowledge is one of the important cultural factors influencing noncompliance. In all the city councils studied, it was observed that, only few members of staff were interested in accessing procurement literature. This was the reason many respondents stated that lack of information and knowledge increased noncompliance in the councils.

Table 4.16 below presents the substantiating codes for this factor.

**Table 4.16 Knowledge accessibility substantiating code**

“Do non-urgent procurements that you make for storage follow the right PPPs? That is not an emergency; we procure for future use. Therefore they follow all the PPPs.” (LCC 7.0)
“If we do not follow regulations, it means we use shortcuts. Therefore, when we follow the regulations, it makes sense for normal purchases but not exigent ones.” (LCC7.1)
“However, the PU should have been better if it reported directly to the CEO. Nonetheless, since procurement is young, it makes sense to report to the DoA.” (BCC9.2)
“So, the issue of the sensitivity does not arise. When there are issues which require the services of the DoA, they are properly recorded in the IPC minutes and an action is taken by him. Otherwise, as PU, we report to DoA on administrative issues and then to the CEO on procurement related matters.” (BBC9.3)
“Awareness is achieved through trainings. Procurement professionals and their counterparts need to know that right knowledge in procurement is power.” (LCC 9.10)
“I think the PPRs were created in a hurry that is why both the firms and the ODPP seem not to fully understand them”. (LCC 10. 2)
“As council, we receive CDF which is a pawn for politicians who enormously squeeze it.” (BCC 10.1)
“Awareness is achieved through trainings. Both procurers and no procurers need further trainings for them to understand procurement laws and apply them correctly.” (LCC 9.10)
“As council, we receive CDF which attracts political interference. This affects compliance levels as MPs flout the PPPs.” (BCC 10.0)
“True, some of the donors have come in to assist us a lot with funds and laws protect such funds.

“Sustainability of donor projects becomes difficult unless government comes in. Even the ODPP is highly dependent on donors. But, if funds are properly managed, they can be saved and the projects can be sustainable. .” (BCC 10.1)

**Properties**

1. The provision of information to stakeholders like MPs and Ward Councillors is necessary for enhancing compliance levels.
2. Providing knowledge to customers is important for improving compliance.
3. The variation of some clauses in the legal framework also provide some chances for staff members and some stakeholders to depart from logical way of handling procurement.
4. The low level of education for some council members also complicates access to information.

**Specific procurement strategies**

1. The councils should promote access to information and make PPPs easy to grapple with.
2. There was need for periodic meetings with user departments and suppliers.
3. There was need for revision of the PPRs to make them comprehensible.
4. Good IT infrastructure can improve access to information by all stakeholders.

**4.3.3.3 Reward system for procurement officers (F9)**

The study revealed that reward system for procurement staffs influences compliance. Due to poor alignment, the procurement function is not autonomous and is under-compensated.

Table 4.17 presents the substantiating codes for this factor.

**Table 4.17 Reward system for procurement officers’**

“At the moment, the procurement function is not properly incentivised. We need a structure which should devolve from administration and be upgraded to M4.” (LCC 10.7)
“The PU is under the DoA and hence parasitic, and cannot be appreciated.” (MCC 9.6)
“The councils have been using people from other disciplines to run procurements hence creating problems.” (LCC 10.4)
“Stakeholder trainings are very important for skills development and awareness.” (LCC9.10)
“The post of procurement officer needs to be established and then get upgraded to at least M4 for it to authoritative and effective.” (LCC .2a)
“Looking at the nature of their job and the amount of money councils spend on purchases, M6 is



too low but upgrading can only be possible if this position is established.” (LCC9.2b)
“The current workers cannot be upgraded since their positions are non-established.” (LCC 9.3)

### Properties

1. It is very difficult for the councils to develop and share experiences in procurement without an effective reward system. Although good salary package is important, recognition and praise are also crucial for employee motivation and job satisfaction.
2. Effective leadership is needed for management for employees to be open and share skills and data.
3. It is difficult to measure the level of contributions made by the PU given also that work of the PU is never part of management agendas.
4. Different councils have different expenditures and sizes based on their magnitude.

### Specific procurement strategies

1. City councils should develop and implement rewarding system in collaboration with the HR functions.
2. Procurement professionals should be allowed to display how well they have discharged their duties and get recognised.
3. The better performing procurers should be considered and properly weighted through performance appraisal.
4. Considering that councils spend differently on purchases, performance appraisal should be based on what that council has spent in that year.

### 4.3.4 Information Infrastructure

The technological infrastructure plays an important base for modern communication in procurement. The literature reviewed so far showed that lack of ICT propagates non-compliance. The factor (F10) below substantiates this argument.

#### 4.3.4.1 Information Technology (F10)

The study revealed that in spite of its importance in enhancement of compliance, IT is yet to be adopted. The study observed that IT infrastructure development is ignored. However, most literature has showed that IT increases compliance. IT reduces purchase order cycle, improves relationships with suppliers, reduces costs associated with procurement processes and improves procurement data management (Saunders, 1997; Burt & Dobler 1996; Chari, 2006, Lamming & Cox 1997 & Whiteley, 2000). Besides, IT support bid evaluation and selection through e-procurement domains (Azekiwe, 2014). The table below presents the substantiating codes for IT factor.

**Table 4.18. IT substantiating codes**

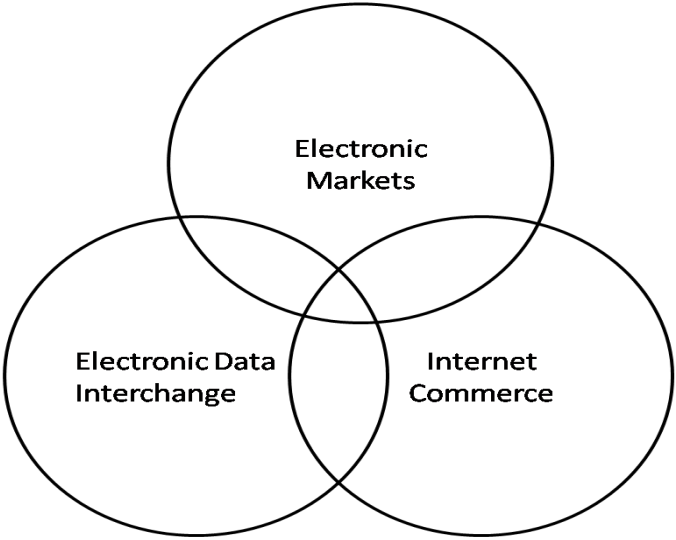
<b>Substantiating codes</b>
“I don’t clearly see ourselves going towards IT. Manual procurement is legal not IT. That is one of the weaknesses of the PPA, as it did not forecast use of IT. (LCC 10.1)
“That is one of the weaknesses in the current law which needs repealing if we are to benefit from IT as the rest of the developed world do.” (LCC. 10.2)
“When you look at the PPA, you can see that the law does not provide for IT use in purchases.” (BCC. 10.0)
“However, IT use include cell phones, computers, fax machines etc.” (BCC. 10,1.)
“I have experience when buying personal things using the internet. Each time I use the net I skip one requirement, the process has to restart all over and that is boring.” (BCC. 10.2)
“Since IT demands total compliance and non-skipping, it can also promote total compliance through analytics and monitoring of procurement stakeholders activities.” (BCC. 10.3)
“Even though PPA omitted IT, other factors inhibit its use. For example, lack of computers, skills and expertise can all work against its inclusion in PUs.” (BCC. 10.4)
“Poor electricity, high tariffs and erratic network can also stifle use of IT in procurement.” (BCCA. 10.5)
“This way, IT is a non-starter even though it has some great advantages as proved elsewhere around the globe.” (BCCA 10.6)

**Properties**

1. Establishment of IT infrastructure is an essential factor for enhancement of strategic procurement. It helps establish electronic markets, which use IT to present a range of offerings on the market and allow purchasers have a wider choice
2. In addition, e-data interchange is the commonly standardised system used for coding business transactions so that they can be communicated easily to others.
3. This can dramatically improve buyer/supplier relationship due to increased trust.
4. The internet commence can also be used to advertise for tenders and one-off purchases. The internet can also help in the reduction of costs associated with dead hours and transportation.
5. Computers can help sort out bureaucracy and speed delivery
6. E-procurement systems have in the recent years demonstrated their benefits in terms of transparency, accountability, and payments across nations.

7. . Besides, potential suppliers are provided with standardised and real time information that reduces the need for informal contacts between public procurement officials and suppliers.

Figure 4.4 below represents the mainstream of IT on how it enhances procurement.

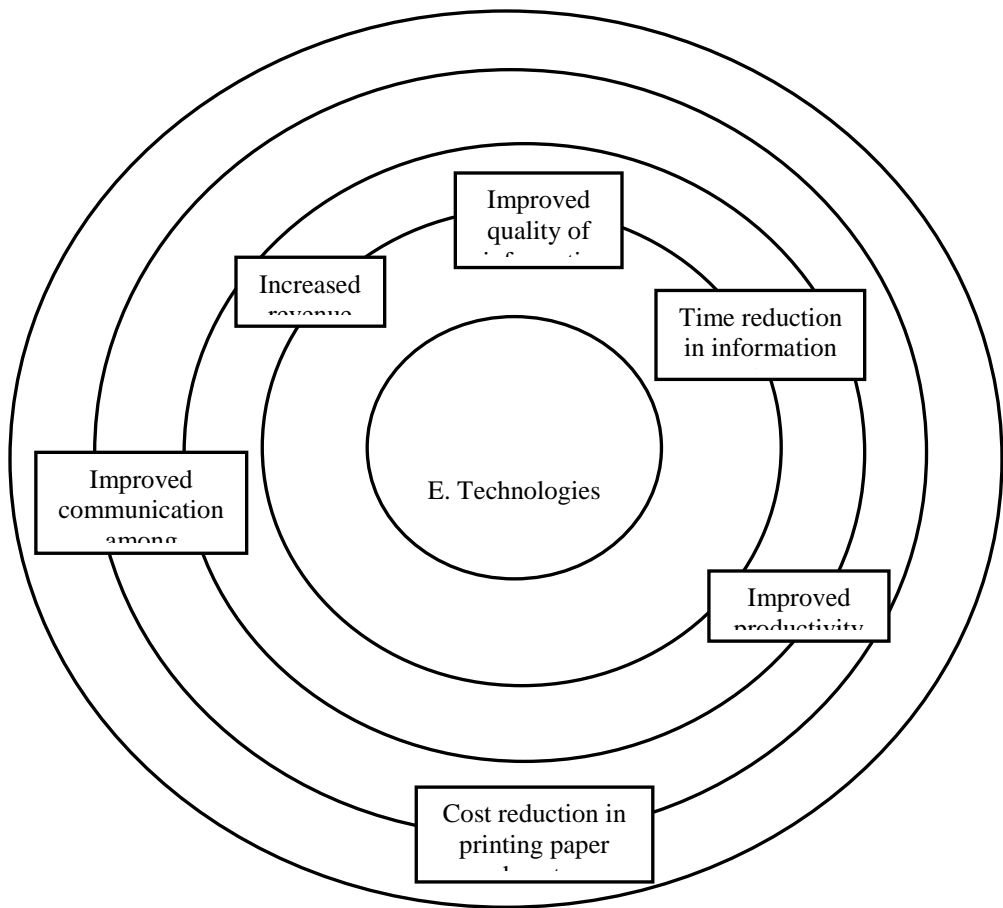


**Figure 4.4: Mainstreaming of ICT**

**Specific procurement strategy**

1. The purchase order must not have been placed previously without proper procedures and diligence by the purchasing department. Since the purchasing department is the only authorised buyer, any purchases made outside them are considered **Maverick**.
2. Maverick buying was observed to be rampant on all procurements for CDF and LDF projects. There was a lot of abuse in processes and procurement methods by the unauthorised committees and individuals including MPs.
3. Buying through other channels is also considered maverick and illegal.
4. There are a number of important considerations for this. First, spending outside of the recognised purchasing channels that cannot benefit from discounts given on larger volumes; volumes of some purchases do not qualify for discounts since they are often purchased from non-contractual sources. Secondly, maverick purchases do not benefit from professional buyers diligence, and can lead to losses on the firm. Thirdly, they do not appear in the budget lines and fail to guide future expense allocations. Finally, they are not likely to be placed with the most qualified supplier because the **maverick** have few resources to perform the standard practices hence lacks competitive analysis.
5. The procurement function should address the IT element as a core factor. The infrastructure can help in changing employees' habits and promote compliance levels.

**A Framework for using IT infrastructure**



**Figure 4.5: Benefits of using IT**

**Source: Vedanthachari (2006)**

The figure above projects the major benefits of IT on public procurement. The major benefits of using IT include enhanced compliance, lowering costs, reducing bureaucracy and enhancing value addition. The major savings here is achieved by reducing the size, complexity and paperwork, purchasing bureaucracy, and consequences of pressuring suppliers to cut prices in a more adversarial way. IT also increase competition, increases transparency, reduces administrative costs, improves local government efficiency and in the process increase compliance.

**4.3.5 Framework for enhancing compliance in the LG**

The framework has been developed for the implementers of PPPs entities in city councils. This framework will also be important for all the entities in both the LG and the CG because it focuses on the functionality of public procurement. The framework however is generated from the findings of the reviewed reports from the ODPP presented in the first part, and findings in the second part of this study. The research focused on the effectiveness of the PPA (2003) and how it promotes levels of compliance. However, while the overall principles of best procurement practice are relatively known, the extent to which the supporting legal framework binds these

principles, linking procurement officers and their actions to good governance, is not well understood. The proposed framework for compliance aims to abridge this gap. The study further paid much attention to the alignment of procurement function, culture, processes and IT infrastructure. The developed framework, which is deductive in nature, is based on these four pillars. It is also important to note that the current literature on PPPs in Malawi has helped enormously shape this framework. In this regard, we had to identify the stakeholders involved based on the procurement cycle analysed in the literature review section. The framework for compliance so far designed is as listed in table 4.18 below.

The following is a summary of the structure of the findings:

**4.4      Organisational structure for the procurement function**

The current structure of procurement function is at lower level instead of being at strategic level as required by the PPRs (2004). For the laws and policies to be discharged effectively, there was need for re-alignment of the procurement function.

**4.4.1    The organisational culture**

The research findings have also revealed that there were negative traits in all the studied councils on the establishment of procurement functions. For example, there was resistance by some members of senior staff who opted for the establishment of parallel structures that were antagonist with the PPPs, hence pivotal noncompliance.

**4.4.2                  Public procurement processes**

The study has also revealed that due to PPPs bureaucratic nature, councils opted for maverick buying. For example, an MP spent over twelve million Malawi Kwacha on construction of a bridge without involving any procurement function (Kasakula, 2016). Again, those involved in these practices were not punished by any law.

Based on these findings, main procurement stakeholders have been identified as recognised by (PPA, 2003 & PPR, 2004). They are responsible for decision making at different levels of procurement processes. In order to maximise compliance levels, the LG has reviewed a number of outdated laws. The structure of the reviewed legal framework has been presented in table 4.19 below.

**Table 4.19: Framework for public procurement compliance**

**Part (A) Policy on procurement structures**

Category 1 Establishment of the ODPP	
Stakeholders	The President, Ministers, Voters, Taxpayer
Operational arrangements	Strategic regulation and monitoring of PPPs and disposal of obsolete, surplus and unserviceable assets of public entities

	including parastatal institutions.
Procedures/regulations	Regulate and monitor PPP in Malawi, ensure availability and accessibility to public officials and general PPA, develop in consultation with concerned professionals, for issuance by relevant authorities for use throughout Malawi, standardised procurement regulations, and bidding documents, which shall be binding on all government ministries, departments and parastatals, promote the development of a procurement workforce, including organising and conducting training programmes aimed at establishing procurement related positions, career paths and performance incentives, collect data and monitor the performance of the ministries, departments, and parastatals, and persons conducting procurement proceedings so as to ascertain efficiency and compliance with applicable legislation, regulations and instructions, collect data on the performance of procurement contracts in Malawi by suppliers and maintain and circulate the list of debarred bidders and suppliers, provide periodically a quantitative and qualitative assessment of procurement activities in Malawi to the minister, who shall present the report to parliament, refer the violation of the PPA relating to the relevant budgetary and law enforcement authorities, propose improvements in the PPPs, provide administrative review of bid protests in accordance with section 38 of the PPA, carry out economic studies on procurement comparisons, and future projections, so as to provide advice to government in respect of the mid-term and long-term policy it may formulate in procurement matters and, gather information concerning procurement terminology and legislation, and set policy for, and promote the application of modern ICTs to public procurement
Training needs	Compulsory need for advanced training for all personnel at the ODPP on procurement regulations and procedures, development of organisational structure for procurement cadre and suppliers dispute resolutions.
Addition/new provision	The name of the ODPP to be changed to Public Procurement and Disposal of Assets Authority (PPDA). The PPDA to have the powers to reprimand the procurement entities that breach PPPs. Based on the gravity of the offence, to include a detailed structure about how the PPDA would grade the procurement professionals and create institutional organisational structures with the aim of enhancing compliance levels.

Interventions for non-compliance	The PPDA should design the structure of procurement professionals in the councils in the manner that will reduce overlaps on functional activities with other functions. For instance, procurement leader to be at par with the DoF and DoA etc.
<b>Category 2 : The Controlling Officer (an oversight figure of procurement of the entity)</b>	
Stakeholders	The director general, procurement unit, requisitioning unit, suppliers
Operational arrangements	Ensure that procurements and disposal of unserviceable and excess goods is done in total compliance with the PPRs.
Procedures/regulations	Ensure that the IPCs are in place; produce necessary reports for the ODPP, ensure that PPPs are adhered to, handle suppliers' queries and grievances, manage supplier's misbehaviour, ensure that documentation is safely kept and discipline all procurers and suppliers who contravene the law.
Training needs	Compulsory training to the CEOs on the need to have procurement officers at management level; training on PPPs. Training on the importance of compliance and how to handle suppliers justly.
Addition/new provision	The PPA should be reviewed to clearly include a provision for the roles of the CEOs of procuring entity; the chairperson of the IPC should not be CEOs.
Interventions for non-compliance	The CEOs who fail to comply with the requirements should be reprimanded; treasury should not fund such entities, be disciplined and fined based on the gravity of the offence.
<b>Category 3 Establishment of procurement unit (S 9&amp;10)</b>	
Stakeholders	Requisitioning departments, PUs, accountants, councillors, MPs
Operational arrangements	Strategic procurement policy and planning.  Procurement plans for the LG and CG should be done concurrently with the budget debates. This would assist get it scrutinised and suppliers engaged as early as possible.
Procedures/regulations	Details of the items and brief specifications, quantities and tentative delivery times, budget in terms of price should be defined.
Training needs	Awareness trainings on strategic procurement planning, procurement ethics, rules and regulations be mandatory.
Addition/new provision	Procurement plans should be reviewed prior and post procurement

	by internal auditors of the councils for compliance
Interventions for non-compliance	No procurement approval should be granted before procurement plans are in place.
<b>Category 4 Functions of the PU (S10) and Reg. 22</b>	
Stakeholders	CEOs, procurement professionals, requisitioning units
Operational arrangements	Acquisition of procurements for the councils in line with set procedures.
Procedures/regulations	No set operational procedures in the current Act. The Act to define how PPPs should be done.
Training needs	Mandatory training on use of standard bidding documents, request for proposals/quotations, and PPPs.
Addition/new provision	Planning and coordinating procurements, preparation of invitation to bid, publication and distribution of invitation to bid, reception and safeguarding of bids, provision of secretarial services and advising IPC, correct administration of procurement contracts.
Interventions for non-compliance	Any city council without the procurement function should not be allowed to buy. Any deviation to the provision should lead to dismissal, warning, and or suspension
<b>Category 5 Requisitioning unit</b>	
Stakeholders	All user departments, accountants, engineers, special consultants
Operational arrangements	The requisitioning unit is responsible for initiating procurement requirements and preparing technical specifications.
Procedures/regulations	Initiate procurement need, preparation of specifications of their need, assist in bid evaluation, and participate in inspection of acquired goods.
Training needs	Training should be done on how to: prepare standard specifications, communicate specifications and select best PPPs.
Addition/new provision	The PPA should include the RU and its responsibilities
Interventions for non-compliance	The distinction should be made between the roles of the RU and PU
<b>Category 6 Establishment of IPC; S9</b>	
Stakeholders	CEOs, procurement professional, accountants, engineer, auditors, technical experts and any independent persons up to a maximum of



	7 people.
Operational arrangements	The IPC should ensure that procurements comply with the PPPs. Reviewing the recommendations and documents submitted to it by the PU.
Procedures/regulations	Ascertaining the availability of funds, opening, examination, evaluation and comparison and selection of successful bidder.
Training needs	Have training in procurements procedures, and principles; use of simple accounting principles and basic economics.
Addition/new provision	The process of bid examination, comparison, and selection, to be done by the evaluation committee. IPC should be responsible for review of such activities.
<b>Category 7 Establishment of evaluation committee (ECs)</b>	
Stakeholders	PU, RU, Expert consultant, CEOs
Operational arrangements	The ECs ensure the assessment of bids, quotations and RFPs, is done effectively as follows: conducting preliminary examination of bids in which all non-compliant bids are disqualified, conduct detailed assessment of bids to determine substantial responsiveness of bids to technical specifications and commercial requirements described in the bid document and compare the prices to determine the lowest evaluated bidder.
Procedures/regulations	The ECs ensure the assessment of bids, quotations and RFPs. Conduct preliminary examination of bids in which all non-compliant bids are disqualified, conduct detailed assessment of bids to determine substantial responsiveness of bids technical specifications, and commercial requirements described in the bid document and compare responsive prices.
Training needs	The ECs trained in the following area: evaluation of bids using both qualitative and quantitative methods, use both effective reports writing to come up with evaluation reports on the winning bidders and supplier management.
Addition/new provision	Legislation should be made to include the evaluation team including its functions.
Interventions for non-compliance	City councils must warn, suspend or dismiss those that violate the law.

<b>Part B Public procurement operations and implementation</b>	
<b>Category 1: Identification of need</b>	
Stakeholders	Budget holders, stores officers, experts in subject area of procurement.
Operational arrangements	Responsible for detailed specifications, determine the stock levels and check if item is available in stores.
Procedures/regulations	Come up with procurement procedures for procurement officials and IPCs, which should enhance confidentiality of suppliers
Training needs	Compulsory training on public procurement for all procurement stakeholders.
Addition/new provision	Provision in the PPRs for compulsory training for implementers and other employees of city councils to enhance compliance.
Interventions for non-compliance	The CEOs should warn, suspend, disqualify or dismiss those in the wrong.
<b>Category 2 Procurement Planning (S21)</b>	
Stakeholders	RUs, PUs, IPCs, FUs
Operational arrangements	Strategic procurement policy and planning for councils should be done concurrently with the budget holders. This would help scrutinise procurement plans and advise suppliers about what comes ahead.
Procedures/regulations	Details of the specifications of the items, quantities, delivery times, and budgets.
Training needs	Compulsory trainings on strategic procurement planning, ethics, rules and regulation.
Addition/new provision	Need for review of procurement plans prior and post procurement. This should enhance compliance with PPPs.
Interventions for non-compliance	No procurement prior approvals would be granted by ODPP for city councils that do not have procurement plans.
<b>Category 3 Selection of procurement method for suppliers. (S30)</b>	
Stakeholders	Head of RUs, PUs, IPCs and ODPP
Operational arrangements	Procurement methods for selection of suppliers should be well

	aligned with approved monetary threshold.
Procedures/regulations	Strategic selection of procurement methods should be considered from the following: OCB, DPM,, RB, RfQs, RfPs, and SS
Training needs	Training of RUs, procurement officials, and IPCs on what procurement methods.
Interventions for non-compliance	Any mis-procurement should result into fines depending on the gravity of the case.
<b>Category 4 Bidding process</b>	
Stakeholders	The PUs, RUs, IPC, Voters, Tax Payers, Suppliers
Operational arrangements	<p>Identification of the right standard bidding to the right procurement method. All the processes of bidding to be complied with the standard bids selected to be based on the regulatory threshold as determined by the ODPP.</p> <p>Evaluation of bids to be determined based on the type of procurement conducted and their threshold amount.</p>
Procedures/regulations	<p>Clear regulations should be made for PUs and RUs to be responsible for the choice of procurement bidding documents depending on the threshold.</p> <p>This will enhance the level of compliance of the PPAs.</p>
Training needs	PU's should be trained on the use of all standard bidding documents.
Interventions	All procurements conducted on wrong documents by councils to be deemed mis-procurement and hence the involved officer to be reprimanded based on the nature of the offence.
<b>Category 5 Bid Evaluation S31(13)</b>	
Stakeholders	PU's, RU's, and other knowledgeable members
Operational arrangements	The evaluation committee will be responsible for assessment of bids, and quotations for contracts.
Procedures/regulations	Assess the submitted bids by suppliers against set criteria in the bids, and RfQs.
Training needs	Training in principles of supplier's evaluation, price comparison using both qualitative and quantitative methods.
Addition/new provision	A provision should be made in the legal framework to separate tasks of members of the IPCs, and RUs on bids evaluation.

Interventions for non-compliance	Tasks of IPC and RU should be properly separated from those of the PU to limit conflict of interest during bid evaluation.
<b>Category 6 Selection of the winning bidder</b>	
Stakeholders	The ODPP and PU
Operational arrangements	Substantially responsive bidder based on the following: verification of criteria used either using yes/no or rating of 0, 1, 2, 3, 4 or 5 where qualitative and quantitative methods of evaluation were used respectively should determine the winner.
Procedures/regulations	Officials in requisitioning, planning, preparing, and conducting procurement proceedings, and administering the implementation of procurement contracts shall-discharge their duties impartially to ensure fair and competitive access to public procurement by bidders; should always act in the public interest, and in accordance with the PPA, avoid conflict of interest, and the appearance of impropriety in carrying out their duties and conducting themselves, and shall not interfere with the IPCs and not commit or abet corrupt or fraudulent practices, including the solicitation or acceptance of improper inducement (S18 PPA).
Training needs	Compulsory training of IPC members on review of evaluation reports, assessment of risks associated with award of contracts to suppliers and stages of the PPPs.
Interventions for non-compliance	City councils must make sure that all the officials who breach the provisions are reprimanded, warned, suspended, fined or dismissed.
<b>Category 7 Disposal of surplus, obsolete and unserviceable stores and assets</b>	
Stakeholders	Minister, CEOs, PUs, SOs and the public
Operational arrangements	The candidate items for disposal should follow market value to be the disposal value, once disposed the item should be removed from the register, and the disposal should follow a disposal work-plan.
Procedures/regulations	Legislation should be made to enable councils comply with the processes involved in the disposal of the assets.
Training needs	Compulsory training for all staff of the councils on the life cycle of assets. Training for all staff on the use of valuation of assets to reduce undervaluing assets.
Addition/new provision	Public entities shall be required to plan disposal activities with the view of achieving maximum value from disposals.

Interventions for non-compliance	City councils to seek approval from the ODPP before disposal can take place. Any Council falling short of such approval will have to be reprimanded or fined.
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#### 4.4.3 Part A: Development of structures involved in the PPPs

Part A of table 4.19 presented a systematic structure of public procurement based on the levels of authority. The measures that have been developed are behavioural prescriptions designed to regulate an independent group in a coherent manner. These steps further provided feedback while at the same time acted as tools for monitoring whether the procurement process at each level complies with the PPPs.

This part aimed to develop an organised structure to ensure that information flow about procurement processes are complied with. This was done by reviewing key recommendations and documents used at each level of authority. Key stages of procurement process submitted by respective authority can approve or reject the recommendations based on the quality of information, and how issues of compliance were addressed.

In this regard, the main players on this part comprise of the ODPP, the CEOs, the IPCs, the PU, the RU, Budget holders and the EC. For these stakeholders to perform well, they need knowledge, and experience on PPPs. These attributes of procurement players will enhance the principles of compliance. Since all the stakeholders in part A are legal entities, continuous training for them is paramount to enhance quality of decisions to VFM.

#### 4.4.4 Part B. Procurement operations and implementation

This part in the developed framework was an extension of Part A and was associated with the actual processes of procurement. The procurement processes have however been discovered to be affected by culture. A culture of conducting lawless procurements was common. The role of procurement function, leadership, reporting structure and professional code of conduct have been the main issues affecting the systems. Under this part, the procurement function was the main stakeholder and was strategically positioned to execute systematic procurements. The needs defined in part A by the RU are interpreted in part B by the procurement professionals. The various measures were integrated during implementation stage. The integration aimed to achieve VFM for both the RU and PU while complying with the PPPs.

The roles of other stakeholders were delineated from those of the procurement function. This was done to reduce any conflict of interest, which has been proved common in the cases. The roles of the RU and the procurement department have been defined to allow easy formulation of strategies. Comprehensive strategies have been adopted for implementation of policies developed in part A.

4.5 Research Question, Research Analysis and Discussion

As stated in chapter one, the purposes of this study were in two folds:

To examine the roles of procurement function on value addition in the councils through procurement activities, and to formulate a logical explanatory framework, that can enhance compliance.

Qualitative research method using case studies was chosen because it sought to uncover what was going on– taking into consideration relationships, contexts and meanings. This section therefore began with an extensive discussion of the results from the study and the proposed framework for realigning the procurement function so that it promotes compliance.

The literature review presented in chapter two offered a general overview of the theories as applied to strategic procurement function. Furthermore, what was already known about strategic procurement was discussed, and how this enhanced the principles of VFM in public procurements. This review was developed prior to data gathering and analyses. However, as data analyses advanced, lack of proper alignment of procurement function had been discovered to fuel compliance. The figure below (5.1) depicts reasons for lack of compliance in the councils. The factors were a combination of the findings from the literature review, audited reports by the ODPP and data analyses from the case studies.

Figure 5.1: Factors for non-compliance with procurement procedures



Source: Author

The process of public procurement as a compliance element was dependent on how strategic the procurement function was for each city council. Procurement function was the hub of all procurement processes. Of particular interest was the fact that each level of process was there to reduce the risk of loose of public funds hence had a value-adding connotation.

The requisitioning departments were always concerned with the processes without paying much attention to PPPs. The effects of this had been to enforce public procurement strategies for the sake of increasing the compliance. The findings of this study were congruent with most of the findings from the literature review. However, they provided new line of thinking about how to enhance compliance in the city councils.

When looking at alignment of the procurement function and compliance issues, strategies like reprimands, compulsory training of officials and use of non-standard forms for development of specifications were not exposed by the studied literature. These strategies were very important in procurement and compliance issues. Trying out different ways of enhancing levels of compliance allowed city councils to learn better ways of coping with procurement procedures.

While there were considerable vindications concerning the complexity of achieving the required levels of compliance, this study has discovered that participation by the main stakeholders was one sure way for promulgating compliance (see table 4.19). In this regard, to achieve the objectives of this study, there were three questions guided by the gaps in the literature review. These questions were:

1. How can the procurement function contribute to the attainment of city councils goals?
2. Why is there lack of compliance with PPPs in the city councils?
3. Is it valid to assume that procurement function is key to enhancing compliance levels?

Public procurement in councils revolved around two main frameworks namely; PPA (2003) No. 8 and the LGA (1998) No. 42 and was structured based on the former. Considering that the PPA was the most recent provision, it obviously superseded the LGA, (1998).

#### **4.5.1 The structure of procurement function**

Substantiating quotes from the interview on noncompliance with public procurement structure system:

*“However, here at...the... PU is under Department of Administration. Therefore, the CPO is supposed to report to the DoA. The function is not independent at all given its reporting structure”. (BCC 1.1).*

*“At the moment, I am the only CPO in the acting capacity; however, the structure does not comply with the PPA and PPRs”. (LCC 2.1).*

From these responses, it was clear that the majority of the respondents thought that the procurement function had surpassed the strategic management level and was matured. Given the findings, the function needs strategic re-alignment to properly support procurement activities.

Although the procurement structure is minimally underdeveloped in all the case studies, each council had developed a procurement team for its procurement business. The councils reported to have the required number of procurement officers in managing procurements. The exception was

one council that had only one procurement officer. However, all the councils have qualified officers except one council where the officer was below required standards. Above this, the procurement team in all the councils hardly undergo refresher courses in procurement. It was also established that councils do not budget for training of their procurement officers. This bolstered what this research sets out to establish, that if every city council realised the importance of the procurement function, they should have aligned it with other functions. It is thus advisable that the city councils should restructure the PUs to instil confidence in the stakeholders and give them the impetus and authority to tinker well with the stakeholders. Nonetheless, the findings showed that there was still an array of misunderstandings about the role of the procurement function. The literature so far reviewed also showed that there were different levels of management in the procurement function. Based on the results of the study, designations such as the procurement manager, materials manager, procurement and materials manager, supply chain manager, logistics and supply chain manager and CPO and so forth were common (Dobler & Burt, 1996; Baily, et.al., 2008; Lysons & Farrington, 2006; Anonymous, 1994 and Anonymous, 2002) observed the same.

This study also confirmed that most procurement positions such as CPO, strategic procurement manager, supply chain manager and others were necessary for this job to work well in the councils. People with expertise in areas of accounting, economics, engineering, and law are traditionally considered for procurement jobs even though they are not experts. This too enhanced non-compliance (Msaka, 2009). The majority of respondents reaffirmed the need for procurement specialists to have good background knowledge of the PPPs for them to steer procurement functions.

Further, a significant number of respondents viewed the current structure of procurement function as a mockery as it did not reduce over-expenditures. On this, the study established that out of the total annual budget in the councils, over 70% was spent on procurements. This was a significant amount of money spent considering the structural level at which the function was. It was also noted however that the tasks of procurement professionals in all the councils had steadily shifted from the administrative role, to strategic management roles, which include advising management on how to develop and conduct, appropriate procurements. The study also observed that one council had well-trained procurers who were also upbeat with their work. This helped the council comply well with most of the PPPs. However, the structure of all the councils were far from incentivising procurement professionals. This made the councils perform poorly as they could not comply with the PPPs. There was also lack of clear structure and career path for the procurement staff members.

The respondents in all the councils also reported that the structure of the procurement function was underestimated by the councils and was absorbed by the DoA. This type of arrangement was a complete departure from the requirements of the PPA (2003). In view of this, the respondents proposed several positions. Depending on the requirements of the procurement function, the author developed the following thematic organisational structures:





2008; Bovis, 2005; Dobler & Burt, 1996 & Obanda, 2010). The procurement process extends from the “decision to procure” stage through the tendering process to finalise contract administration. The structure designed in figure 5.2 provided solutions to the current compliance problems and recommendations were made in table 4.19. However, the author notes that the structure in 5.2 did not include people at the grassroots. Meaning that these people will still have problems because they are involved in local procurements for local projects. At the grass roots, there is no involvement of specialist buyers. It is for this reason that the lead buyer is needed to bridge the gaps that are in the villages during such adhoc procurements.

The author noted that the buying without specialist buyer mattered more as it did not add value for money and services. In this case, we need the specialist procurement to be designated to each project site. This study has also shown that there was lack of compliance in the implementation of the LDF and CDF projects because the villagers did not have any knowledge, skills and or experience of the PPPs. The following quotation substantiates this, “*as council we receive CDF which attract politicians they do influence us into misprocurements. Each MP feels they are free to spend the CDF the way they want.*” (BBC 9.0). The lead buyer would then provide expertise when using these funds while making sure that these villagers are involved. The lead buyer would also guide the villagers in following all the proper stages of procurement from bid preparation to contract awarding. The involvement of the lead buyer would enhance levels of compliance. Such an arrangement has worked elsewhere towards the success and sustainability of the LDF and CDF projects (O’Neil & Cammack, 2014).

Despite the many advantages associated with decentralised procurements, challenges have been reported in the councils as follows:

- The procurement function was inflexible. This was a departure from the objectives of decentralisation: to satisfy and empower the need of the grassroots.
- When there were unclear specifications, procurement function was in the loop acquiring the goods, which did not comply with the user’s needs.
- Sometimes decentralised system proved to be very bureaucratic and created costs.
- With decentralisation, total centralisation meant that petty items needed to be procured by the grassroots.

With the CTBs, it was assumed that the supply chain became so complex so much, so that procurements could not reach the users in time. This was so as the goods had to pass through the Central Stores before being distributed. The result of this was that users waited for long before accessing their requirements. Due to these delays, the requisitioning departments decided to eliminate the procurement function. In such situations, the user departments fragmented their purchases into small units to make sure that procurements were within the thresholds (PPA, 2003: S3 (2)).

The lead buyer arrangement will thus mitigate the challenges faced by procurement in both centralised and decentralised systems. The lead buyer will also help procurement activities take

place on a decentralised system while being accountable and transparent to the laws. This arrangement will make novice buyers gain valuable procurement knowledge from the experienced buyers.

#### **4.5.3 Training of procurement professional**

Substantiating quote from the interview

*“The users out there believe that the procurement function means everything, which you can acquire and pay for. The hierarchal process that you need for authorisation at each level of execution is a waste of time”. (BCCB 4.17).*

The findings of this study supported the literature that emphasised the need for training in procurement to enhance compliance (O’Neil & Cammack, 2014). Since procurement is a cross-functional process, it was imperative that professionals were well trained in cross-cutting issues.

The author observed that in all the councils, the team of procurement professionals were either undertaking training courses with CIPs or Bachelor of Logistics and Supply Chain at the Malawi Polytechnic. In other councils, they had successfully completed their training programmes. These employees were doing self-development, as the councils could not support them financially. This was a serious issue given that the procurement function spends about over 70% of the council’s annual budget on acquisitions. Cousins (1997) observed that there was close correlation between qualifications in procurement and compliance levels. He asserted that well-trained people are better placed to interpret most of the PPPs. It is also just to argue that well-trained employees have an advantage to grab strategic jobs in procurement. Since part of procurement’s main responsibilities is to manage suppliers, professionals who are skilled and should be able to guide suppliers well. The findings of this study also discovered that generation of value during acquisitions, creating fair competition to all bidders, cross-functional collaboration; alignment of corporate purchasing initiatives with internal users; optimising and development of supplier base, were critical factors (CIPS, 2012). The author further observed that the initiatives of well-trained procurement professionals in general terms in managing the procurement processes included the following:

Transparency, which means a fundamental principle of community policy. It implies accessibility to information, responsiveness, and realistic time scale for consultation and freedom from built-in-bias (Compton & Jessop, 2001). Under transparency, access to information on specific procurements had to be provided to interested stakeholders in time to allow them participate fairly. Transparency in public procurement entails that laws, procedures and desk instructions are interpreted correctly. This minimises risks for all the stakeholders. If these rules are not properly interpreted, the whole procurement process may be nulled. It is for this reason that procurement professionals should understand their job (Awino & Getuno, 2014 & Schapper, et.al, 2006). Transparency has been interpreted as time consuming by many respondents of this study particularly those who were in the peril of procurement function. Yet, transparency saves time, and cost of re-advertising in cases where the process has been challenged. It further enhances the integrity of the procuring entity. Moreover, compliant entities are given more respect and have more value in the society (see table 4.9 for detailed information). Transparency also promotes

competition, and helps the attainment of benefits. It is also a platform for providing feedback to the stakeholders on how their resources were being used. For the bidders, feedback on their performance enables them to reposition themselves for the next bids. Even then, the majority of the respondents asserted that some procurement professionals were well trained and had relevant skills. They cited how they performed their roles in managing procurement processes and operations as evidence. The views of the majority were that well-trained procurement professionals were important in the management of the PPPs. As an important component, networking was also considered as a strategic component for procurement professionals. This would enable the rest of the non-professionals to learn from them. In Malawi, we have the Institute of Procurement and Supply; internationally, we have CIPS that regulates its membership. The study also revealed that on the job training for procurers is not fairly administered. Obviously, procurement being under the DoA has slim chances of grabbing training opportunities unlike the mainstream professionals. Given the current situation, there is high risk that the councils would be losing out some values due to lack of proper training for its procurers. These findings therefore emphasised the role of leadership in the promotion of trainings for procurers considering that it has not benefited from the current DoA placement.

#### **4.5.4 Added values**

Substantiating quote from the interviews:

*“So, when you follow the procurement process from point A to Z, you find out that the procurement procedures have added value. It is good to follow them because you are protecting the institution.”. (BCC 4.0).*

*“But I understand that following procedures made a big challenge because many entities have no procurement officers, and that is why they do not realise VFM as they do not follow PPPs”. (BCC 4.3)*

The study revealed that determining benefit in the councils was more complicated because value was driven by the objectives and goals of the “public” and not by the procuring entity (Erridge, 2007). Some of the respondents, however, understood value as procurements bought at low prices. While the ideology of low price might be right, it does not necessarily represent value addition since value covers more than just prices. This argument guided the research study as it assumed that measurement of benefits created some confusions. This was similar to what (Erridge, 2007; Gadde & Hakansson, 2002 and Gelderman, et.al, 2006) established in their studies. However, almost all the respondents indicated that value addition was attained through adherence to PPPs in the councils. For the public sector, procurement competences involved an understanding of how to achieve the static and dynamic efficiency in the delivery of goods and services from the supply chains, and that is the value inherent in the procurement function. In the private sector, procurement and supply competency involved understanding of how to achieve static and dynamic efficiency in appropriation and accumulation of value that is reflected in profit. The study further revealed that value was not only about buying at lower prices but also protection of public interests. The public in this case means the taxpayers. It is therefore, not surprising to note that public procurement is highly complicated just as its values are. Sometimes

the electorate listens more to their political masters than they do to the procurement function. After all, the ruling party brings money into the public coffers. However, political interference triggers breaching of the PPRs. The taxpayers, on the other hand, comprise businesses men and employees alike. These are concerned with protection of their taxes and its uses. They thus hold a kind of utilitarian view towards their taxes.

Some respondents indicated that since procurers had the role of managing council’s supply side, they needed to be knowledgeable. This knowledge was important for the protection of public resources. In doing so, the councils would reduce all the risks associated with abuse of PPPs.

Regarding this, this study found out that the role of the procurement function was to steer compliance and enhance value creation. It was also established that for procurement professionals to help create value, the following issues were crucial: procurement planning and coordination; bid advertisement, opening; evaluation and assessment; and contract administration and adherence to time frames. These factors assisted the procurement function to be more coordinative, use more integrative processes build internal and external relationships and help the councils achieve their goals.

All the respondents agreed that procurement professionals were able to achieve the philosophy of added value in the supply-chain by promoting the use of OTP, which exceeded a particular threshold limit. There was a consensus that OT provided the most effective means of achieving added value and compliance. The OT by virtue of being advertised in media was able to reach a wider population. This means that competition and transparency was promoted. Largely, transparency promoted the rule of Law and eliminated injustices. This approach also helped in providing feedback to the taxpayers about how their taxes were spent; gave all bidders an opportunity to participate; gave chance to bidders to prepare quotations with lower prices so that they parry away competition, and in the end, quality procurements were realised.

The concept took into account the fact that public processes were developed to balance a series of competing objectives such as VFM, and market development in the manner that ensured fairness. Thus, any procurement function that is managed by well-trained professionals can potentially optimise the benefit all things being equal. The public procurers will be able to resolve the misunderstandings surrounding value addition as perceived by many stakeholders.

Table 5.1 below is a framework for benefits of PPRs compliance.

**Table 4.20: Framework of public procurement added value**

Goal type	Value
<b>Regulatory goal</b> Transparency and accountability	Conduct, behaviour, corporate governance requirements and PPRs are open and fair
<b>Commercial goals</b> economy and efficiency	Reduction on cost of purchases, more purchases for the same price due to volume

	discounts and trade discounts, same quality and quantity for less money
<b>Social economic goals</b> social welfare and public value	Equal treatment for all suppliers, protection of SMEs, trust developed, accountability, and publicity is free for all.  Taxpayers know where and how exactly their money is spent.

**Source: Author**

It is clear that integrating the objectives of public procurement needed trained professionals who could effectively interpret the processes. Meeting all the three goals in the table above under the PPPs was mandatory, and had an effect on value addition and creation. In addition, the procurement function strives to meet its objectives by carrying out its activities in the manner that promotes the rule of law. It is imperative then for procurement entities in councils whether centrally located or devolved to be able to;

- Avoid unnecessary costs and delays
- Monitor the supply arrangements and reconsider them once they stop to provide the benefits anymore and
- Ensure continuous improvements in order for efficiency of internal processes and systems to be enhanced.

The study proved that a procurement function ensures that bids selected for award of contracts represent the best VFM. The IPCs also ensured that, all forms of payment were guided by approved thresholds and got properly aligned with approved specifications. The competitive tendering reduced favouritism, emergency procurements, and monopolies. The competitive tendering underpinned the contemporary procurement markets, and differed substantially from competition found in conventional demand-supply driven markets. Pure competition aims to attain the “lowest bid price” while the CTs aimed to achieve the “lowest total cost of ownership”. To strike balanced deal in the “lowest total cost of ownership”, the procurement function make sure that there is balanced prices, quality of goods and operational costs of the goods. It is thus, the responsibility of the procurement function to ensure that value is maintained at all levels, as the ODPP continues providing oversight roles.

**4.5.5 Organisational culture**

Substantiating quote from the interviews:

*“Currently things are coming up, but you know for a long-time procurement is a profession that has just emerged. It is only now that we are seeing ministries grading the leadership of procurement units, and elevating them to some levels. In some ministries, they now put the head*

*of the PU at the level of the Deputy Director and that was not there. Still there is room for improvement in terms of acceptability.’’ (LCC 1.4)*

*“At this... head of the PU reports to the DoA in terms of administrative arrangements, however, the PU chief is a secretary to the IPC and on such issues. I report to the CEO while my quarterly reports go to the Chairperson of the IPC and then to ODPP”. (BCC 1.0)*

Many respondents insisted that organisation culture was an issue that affects the performance of the procurers. They believed that willingness of top management was an important aspect for repositioning the procurement function. Thornhill, et.al, (2000) also supported this belief. Thornhill believed that it is essential to have clearly defined objectives for any transitional periods for the procurement function. He contended that any change should be clearly explained to the stakeholders. Employees will resist change if they do not understand the reasoning behind such change. As an old Chinese proverb says, “Tell me and I will forget; show me and I may remember; involve me and I will understand,” (Thornhill, et.al. 2000). However, the researcher noted the following as attributes needed for top management to enhance the public procurement function in the councils: openness towards change; allocation of resources to the function; development of trust towards all in the systems and tolerance towards mistakes made by those involved in procurements. On this, findings from the respondents also emphasised that empowering the professionals in discharging their duties could also enhance compliance levels.

Nonetheless, the extant literature often emphasised that the CEOs and senior management were critical in the provision of guidance and good leadership towards public procurement (Bovis, 2005; CIPS, 2006; Sollish, & Semanik, 1999 & Emmitt & Wright, 2011). Conversely, all the respondents indicated that, while top management is important in the administration of the PPPs, it is important that middle management, RUs, and PUs demonstrate leadership qualities so that they support the PPPs. This study also revealed that the RUs and other middle managers were also not given much freedom to determine the operations of the procurement functions. It was this culture, which suffocated the success of the procurement function. Besides, functions in organisations do scramble for supremacy, and there were no ways functional departments were going to support each other as far as upgrading was concerned. This study also showed that in spite of councils being supported by ODPP on public awareness about the procurement functions, the function has not been fully supported. In essence, there is a predominant culture of not recognising the required presence of procurement professionals. Where their presence has been felt, they were regarded as second-class employees without a leader. For this reason, they were never given any senior position in the councils. More dangerously so, the councils were gambling by not recognising procurement people as this would lead to professional stagnation and discontentment. This culture has compromised the performance of procurement function. However, in some councils, procurement professionals have made strides in ensuring effective procurements even if they are not fully supported.

This study also highlighted the important roles of the procurement function in the councils. The study further showed that given senior positions to these procurers, they would be discharging their duties diligently. The function has lacked proper alignment to communicate at the same

wavelength with other functional departments. Failure to align the function had been due to lack of familiarity with the PPPs (Geldeman, et.al, 2006; Greg, 2001; Quayle, 1998; Cousins, 1997 & Nyasulu, 2006).

#### **4.5.6 Information Technology (IT)**

Substantiating quote from the interviews:

*“I don’t clearly see how the built-in system would allow migration of our manual procurement system to electronic (e-procurement). We do not seem to have it backed by the law in our current system; and we are not really prepared for that kind of advanced procurement system though it is accepted elsewhere in the world. That too is a weakness inherent in the current law as it advocates for use of obsolete methods. We tend to lose out on many things that come with modern technologies because of conforming to archaic systems.” (LCCB 10.1)*

Overtime, IT have slowly penetrated the whole world in almost all areas of life. However, this study established that many respondents were unable to recognise IT as an important tool in procurement. Use of IT was also found to be important in management of procurement functions due to its effect on data management in some parts of the world. The study also observed that there were some computer-based systems that the city councils utilised. These computer-based systems were used for data collection and processing. This data was crucial for decision-making, planning, programme implementation and control. This study further revealed that information systems that are used for procurement processes, such as hardware, software, telephone lines and the data itself were critical for the success of the function but that the councils did not utilise such possibilities fully.

In addition, the study identified the following as the benefits of IT:

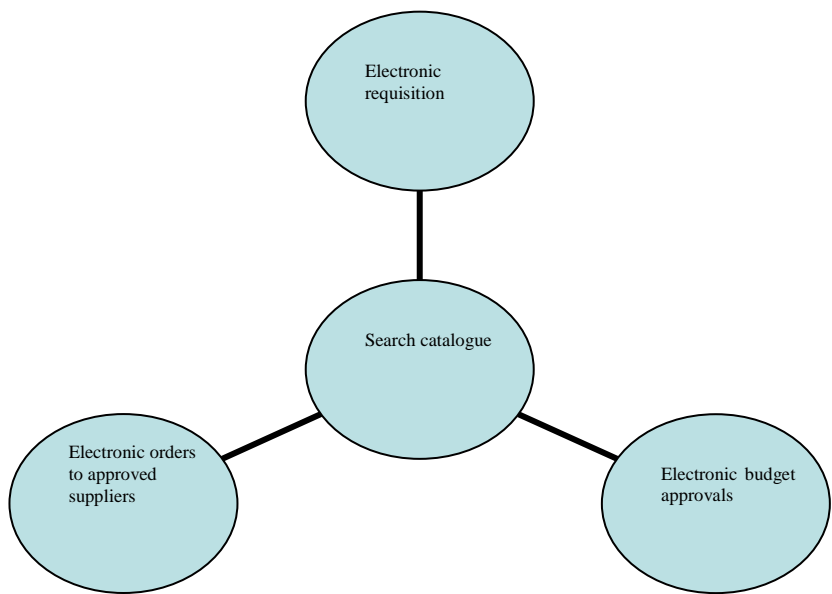
The internet helped integrate procurements; helped check inventory levels; helped look up questions and answers using the FAQ app and helped search for products specific information. It also allowed e-tendering/e-procurement happen faster; also helped facilitate access to solutions for ordering, logistics, and handling of systems and payment systems. Systematically, the e-procurement websites allowed qualified and registered users to look for buyers and sellers. Based on the approach, buyers and sellers specified prices or invited bids. The procurement and selling transactions were initiated and completed in time (Mbewe & Chirwa, 2014).

The respondents also asserted that the e-procurement would not be beneficial on procurement of non-critical purchases such as consumable items. With these procurements, the process tended to be manual, involving RUs submitting requests to the PU where all orders were consolidated and sent to contracted suppliers. In this arrangement, the approval process was manually driven and it was too slow. This kind of approval was known as indirect, and it was illustrated in table 2 of this thesis. The study also revealed that through use of e-procurement lead-time was reduced enormously since some unnecessary stages were eliminated. Manual wise, the approval process still needed to be fulfilled in order for it to be authentic. With e-procurement, the processes were shorter and complied with the PPA. While these were benefits based on observations from



elsewhere around the globe, Malawi could not fully embrace IT for procurement. Figure 5.3 below illustrates how e-procurements are quick and effective.

**Figure 5.3: Purchasing cycle using e-procurement system**



**Source: Author**

There are six stages under e-procurement. These are, search catalogue, e-requisition, e-budget approval, e-order to approved suppliers, order delivery and invoice validation and payment.

Through this condensed framework, respondents believed that procurement function was going to be more strategic than before due to the following:

Time spent on searching and ordering the goods and reconciling deliveries with invoices will be reduced, e-procurement systems could enable electronic invoicing, validation and payment. Savings could occur through the automated validation of pre-approved spending budgets for departments, leading to fewer people assessing the orders. E-procurement systems could permit users to order directly from an e-catalogue without interference from third parties. User departments could also enquire about delivery times of a particular item online without having to wait for long thus eliminating the intermediary (Vedanthachari, 2006). Time between order and use of supplies could also be reduced in the process. By using integrated ordering, and handling systems, transaction costs could be substantially reduced (Vedanthachari, 2006).

The study therefore showed that IT systems represented an important development for both the procurers and the RUs, since these would lead to significant reductions on administrative workloads. The respondents also asserted that with e-procurements, the role of the procurers would shift from administration to management and coordination of suppliers and RUs. With the use of e-procurement, professionals could spend time on building relationships with the suppliers to improve delivery. IT was also central towards strategic procurement and could improve compliance levels. These benefits aside, city councils had not been able to recognise and appreciate the role played by IT.

#### **4.5.7 Conclusion**

This chapter has presented the empirical findings from data that were collected in the case studies. The data were analysed using GT. The analyses conducted resulted into the identification of a detailed list of factors influencing the alignment of procurement function in the councils. The effects of compliance with the PPPs to realise VFM and prudent purchases have also been highlighted. It was established that compliance levels was poor. The situation was like that due to gaps in the current legal framework. The ODPP did not also have powers to reprimand those that contravened the laws to enforce compliance. There was also no recognition of the procurement function in some city councils contrary to the PPA (2003) prescriptions. The legal framework did not also clearly stipulate how procurements would be disposed of after use. Yet, the procurement cycle ends when the assets are disposed of. Based on these findings, a framework has been developed for the policy-makers and procurers in the LG and city councils to use.

## CHAPTER 5

### 5.0 Conclusions and recommendations

#### 5.1 Introduction

This chapter has discussed the findings of this study and provided recommendations. The conclusions have been drawn from research problem, goals and objectives; theoretical and practical contributions; research methodology, validity and limitations, and areas for further research. These have provided a summary of how the objectives of this study have been fulfilled.

#### 5.2 Research problem, goal and objectives

The research problem centred on how alignment of strategic procurement function in the councils can enhance compliance. In addressing the problem, a specific goal was set, “to develop a framework upon which implementation will enhance compliance levels with the PPPs to realise VFM”. The framework, which has been developed, is a compliance tool, and has achieved the main goal of this study. The compliance concepts included in the framework emerged from the analyses of the data. The findings were congruent with the findings of the previous studies covered in the literature reviews. They however provided a different way of thinking about alignment of the procurement function for enhancing compliance. The substantiating data was collected from three city councils of Malawi. The following section provides an overview of how the objectives were accomplished.

**Objective 1:** To undertake a critical review of literature about procurement compliance and the factors that inhibit lack of compliance levels. Through this, alignment of strategic procurement function in the public sector and how this affect compliance was identified. Several factors that affected the way procurers discharged their duties were examined. However, the following were identified as common factors hampering compliance:

##### 5.2.1 Lack of familiarity with PPPs

Gelderman, et.al, (2006) asserted that the level of purchasers’ familiarity with the PPPs was one of the factors that lead to non-compliance in Netherlands. They asserted that initially, many municipalities did not comply with the regulations because they were new. Gelderman, et.al, confirmed this position in a survey they conducted for the EU. We also discovered that since Malawi first introduced the PPA (2003), it was possible that no-compliance was due to lack of familiarity with the new laws. We also assumed that it was also possible that people could have been familiar with the laws but that they just wanted to manipulate the system in their favour. We also discovered that in the councils, the procurement team were not aware of the PPPs. This was particularly true when we look at this response, “For this laptop you can just go to the supplier, who makes my furniture in Ndirande, you will get it at a very cheap price. The problem with you procurement people is that you always want to buy from expensive sellers. You sometimes even inflate costs for your own pockets.” This statement simply tells us that the users do not trust procurers. It might also mean that the users were not familiar with the purpose and roles of the function.

### **5.2.2 Lack of professionalism by practitioners of public procurement**

Another cause of non-compliance in the Netherlands according to Gelderman, et.al, (2006) was lack of professionalism. Likewise, Mangulama, (2008) bemoaned that lack of professionalism in Malawi was the biggest reason that affected compliance. This was still attributed to the fact that this field was still young and not known. The survey conducted by the ODPP revealed that this situation was worse in the LG than CGs (ODPP/01/22, 2010). The survey further revealed that out of 35 councils, none was closer to reaching total compliance due to the absence of well-established procurement departments as stipulated by PPA, (2003): Sections 10 &11. The PPA asserted that Controlling Officers, heads of departments should establish PUs and give heads of such units mandate to execute procurement activities. There were however maverick procurements taking place in almost all the councils. Moreover, each department was responsible for requisitioning its own requirements without following the real PPPs. Perhaps, the issue of unprofessionalism emerges from these findings. Besides, Gregg (2001) and Quayle, (1998) observed that the status accorded to the procurement function was frequently determined by the image of the function. Unfortunately, lay people have a very simplistic view of what it means to be in the procurement function, and do not really appreciate the achievements of the function. McColloch (2001) and Msaka (2009) also observed that professionalism was further compromised when the function was done by less qualified and non-procurement executives. Accordingly, procurement professionals needed to devise strategies for managing all the complexities. The procurement professionals must act as role models of efficiency and truthfulness. When they lack right skills, it will be better to equip and train them properly (Cousins, 1997). Importantly, a skill is either the ability to perform some specific tasks physically and cognitively (Mullins (2009). Mullins further observed that finding an employee with specific skills in procurement was always hard. While we understand that professionalism is a key to institutional change, the precise role of professions in service firms remain under theorized (Betts, 1993; & Hannagan, 1995). In other words, professionalism is key for improvement of compliance levels in city councils.

### **5.2.3 Institutional factors**

Institutional factors that affect compliance in public procurement concerned the third reason for non-compliance. Relative to this, (De Boer and Telgen, 1998) observed that financial policies helped increase non-compliance. They also noted that procurement personnel failed to behave efficiently because they did not share any profits from conformity or divergent behaviour. Telgan (2006) also argued that public institutions normally tried to exhaust their budget in full to avoid reductions in their future budgets. The issue here is that the LG is funded by treasury. The monthly subventions are expected to be utilised in full within that month not otherwise. When you make savings, return them to treasury. Since competitive tendering helps cost saving, firms are forced to return them to treasure and or have their budgets revised downward in the following month. This means treasury fail to appreciate their efforts in financial prudence. To treasury, if you have been prudent enough, it means you were given excess funding. The fact that those who save money are rewarded negatively might be the reason councils do not want to comply with the PPPs. Perhaps this is another area government needs to improve on. That aside, when

management of a public entities are familiar with PPPs, it is clear that they can comply with the PPPs and save a lot of money in the process. The reputation of the councils and the government gets improved if they make savings through just procurements. Moreover, if the procurers are well trained, they will try to avoid the risks of being punished for non-compliance. Sometimes non-compliance has led to prosecutions and arrests of the offenders. Perhaps here, we should not only focus on budget deductions due to compliance as a punishment but also as a blessing in disguise. Therefore, there is no reason for those who get their budget cut to complain since this is nothing but a token of appreciation.

**Objective 2:** To critically evaluate existing Malawi Public Procurement Framework (MPPF), the roles of ODPP, and public institutions from a public procurement compliance perspective. The studies revealed extensive issues as factors that have shifted the paradigm of procurement from administrative to strategic function. These issues assisted in shaping the questions used in the data collection exercise. However, this did not mean there was a priori in this study. The research was still conducted in an open manner and followed the required principles of the Case Study. The study also explored many factors as the main roles of procurement function beyond the guiding elements in chapter 2, figure 4.

**Objective 3:** To undertake empirical case studies in the city councils, using process based approach for identifying compliance levels. Based on our research methodologies, the interpretivist research paradigm was adopted. The data gathered was analysed using GT. These analyses revealed that all the case studies had procurement functions in place. However, the involvement of such functions was based on how each council understood the PPPs. In all the councils, it was observed that wrong no-qualified procurers were the ones handling procurement affairs. The procurement function was also involved in other functions not related to their jobs as they were under the DoA. The levels of qualifications for heads of procurement functions had far-reaching consequences on the performance of the entities. In many councils, the procurement function was obscured and overshadowed by the hosting departments. The findings also showed that poor structural arrangement helped councils fail to comply as the function was dependent and underrepresented. Further analysis of concluded procurements in the three case studies revealed that non-compliance with public procurement procedures in councils was at all levels of procurement processes.

**Objective 4:** To propose amendments to the existing frameworks which if implemented can result in improved compliance levels. The public procurement compliance framework was developed for LG to be used by councils. The new framework was developed based on the empirical findings. This framework delineated the functions of the procurement function, and suggested specific reprimands for those who violate it. It also provided for mandatory training for those involved in procurement to increase competence and professionalism. This framework also provided a holistic picture for the procurement professionals in the councils.

#### **5.2.4 Theoretical and practical contributions**

Malawi Government should have established flexible procurement laws and simplified the PPPs while holding all procurement stakeholders accountable for their mistakes. The study aimed at

investigating the reasons behind lack of compliance in local councils and the role of ODPP and the PPA in improving compliance. It is in this regards that the theoretical and practical implications are derived.

#### **5.2.4.1 Theoretical Contribution**

The Principal Agency Theory (PAT) has its emphasis on how information about procurement flows. The PAT treats citizens as principals and public officials as agents. The principals have bounded rationality. They act based on incomplete information that comes their way. In order to have more perspective on procurement operations, they are faced with some obstacles in executing the processes. On the other hand, agents are better informed. This asymmetry of information allows the agents to indulge in opportunistic behaviour that goes unchecked due to high transactional costs faced by the principals (Obanda, 2010).

In fact, Schiele (2005) argued that while procurement officers may be capable of adding value to traditional procurements such as raw materials and repairs, huge procurements like consultancy services may constitute a category that can be outside the reach of such professionals.

This is a fundamental misunderstanding about what constitutes the function and what it can capably do or not do. This kind of thinking breaches the principles of PAT in the sense that at institutional level, the procurement department is an agent; hence delegated with all procurement's responsibilities; outside the institution it is the principal evaluating suppliers. This means lack of meaningful involvement of the procurement department is a breach of this theory. However, in such situations, none seems to feel that the interests of the principals (taxpayers) need to be protected but mot that of the agents.

Eyaa and Oluka (2011) have presented a complementary view that is also related to agency problems, built on the assumption of a man as an honest individual yet not fully a competent actor. Both principals and agents are burdened by "honest incompetence". The principal may not be fully competent to explain his goals to the agent, and the agent may not fully be able to understand these goals and know how to behave in order to maximise the principal's welfare.

Our study harmonised the two dimensions of the PAT. The resultant findings were that:

- a) The procurement function needs to be graded to a level of the directorate. This would enhance the level of involvement by the function. This would also increase the level of compliance procurement procedures in city councils, as the leadership would act with the principals at the same level of authority.
- b) Training of procurement officers: in order to enhance compliance, procurement officers and its stakeholders need tailor made procurement trainings to increase awareness, professionalism and competences.

According to Thai (2006), procurement professionals have dual responsibilities, as they make sure that operational agencies comply with procurement regulations while getting involved in procurements. Public procurement is a very complicated function that requires interdisciplinary skills. It is impossible to integrate these disciplines into one encompassing procurement

knowledge. This way, the procurer should be able to communicate effectively with those professionals who are involved in the projects. Given the need for these skills, procurement officers must be flexible when making judgement.

Based on this study, procedures and regulations must act as beacons for enforcing compliance levels. The findings of this study have clearly shown that regulations are not followed due to the following main factors:

- Poor alignment of procurement function
- Poor and negative organisational structures
- Lack of goodwill from top management
- Political interference with procurement
- Lack of professionalism by procurement officers
- Lack of procurement planning
- Lack of ICT infrastructure
- Lack of capacity in procurement audits
- Lack of institutions offering public procurement courses and
- Interference by end users in procurement processes.

However, the PPA, 2003 established clear regulations complemented by clear penalties for the flouters. These are considered the most effective tools for enhancing compliance levels. Nevertheless, because the regulations are overregulated, those using them may frequently break or apply them to suit their tastes.

Based on the Public Procurement model already discussed for supplier's selection, the three case studies were identified from the LG. According to De Boers et al. (2006), the potential for compliance problems in supplier selection is increased by different views stakeholders may have during the process. The policy makers seem to disregard the multitude of models available that lead to confusion about which model can actually be applied and to what extent should it be used in the submission of bids. In addition, the public policies seem to be based on the idea that once the buyer's subjective values have been expressed in the model, for example criteria weights, the remainder of the process can be considered a value free administrative exercise. This may however not be the case hence the catalyst for tension between the original idea behind multiple criteria decision model (namely to gradually learn about ones value by the very building and rearranging a model); – and the strict roles of these models. The implications of this are that:

- a) A number of important knowledge gaps seem apparent between important stakeholders (policy makers, practitioners and researchers) as well within communities of stakeholders. It seems therefore important to create more mutual understanding of these different perspectives and improve the stakeholders' knowledge about the many valuable aspects of

formal models and their indisputable limitations. This should ultimately lead to more refined and realistic procurement procedures and regulations as well as more nuanced attitudes for both buyers and suppliers.

- b) Procurement and supply chain management science researchers developing models must gain a deeper understanding of the practical features and dynamics of the area where the models are being applied. When it comes to supplier selection, an important aspect for the future research seems to develop simple methods that can be applied by practitioners without much training and skills. The simplified procedures may not be highly sensitive to the stakeholders of public procurement. This will make life in the selection of suppliers simple, and normalisation procedures, removal of bids, extreme fake bids and so on will be reduced.

The foregoing discussion raises pertinent issues concerning the complexity of public procurement and selection of suppliers. That is in terms of designing efficient selection and management of suppliers, supplies systems, and diversity of stakeholder's interests as well as measuring their performance. This calls for organisational realignment for stakeholders particularly for procurement professionals to equip them with relevant skills and knowledge.

In conclusion, a key challenge across city councils is to find solutions to ensure the protection of the procurement officials from any internal and external influences. The key to protecting them is through clear and ethical standards; an improved public procurement framework, budgetary autonomy; clear job structure; introduction of ICT in procurement processes, and career development and trainings. It is in this regards that we undertook this study.

#### **5.2.4.2 Practical Contributions**

One of the primary motivations of this study was “to develop a framework upon which implementation will enhance compliance and realise VFM”. The narratives told by the respondents in this study, like the literatures, pointed out to the chasm between the ethical practice of those involved in procurement and formal procurement theories. The analysed data also identified a comprehensive list of factors, which influenced the alignment of procurement function and compliance. These factors, alongside the principles of the Case Study, were properly described, and their characteristics were defined according to their properties (Corbin & Strauss, 2008). Beyond the description of these factors, a set of strategies and best practices were provided. The strategies were interpreted based on the researcher experience on public procurement and in line with (Strauss & Corbin, 1998) views. The aim of these strategies was to guide those people involved in procurement implementation. From these strategies, it was clear that there was lack of political will on the part of management on the procurement function. This may also be due to lack of familiarity with the PPPs; lack of professionalism by the procurers and the influence of institutional culture. The result was that there was completely no organisational structure. Even so, the function was being housed in the DoA's baseline. For this reason, the study identified ineffectiveness of centralised procurement system in councils as one of the factors that brought about procurement problems. Depending on the best procurement practices, strategies and concepts were adopted. The organisational structure was also developed to provide



a better understanding of the function. Because procurement was spread to the grassroots people, lead buying strategy was recommended for all procurements done at local levels. In the same vein, the properties and strategies provided for all other factors can assist in the theoretical understanding of public procurement in the councils. Because of better understanding, the proposed procurement framework maybe complied with without problems. It is therefore envisaged that the framework for compliance developed in here (see table 4.19) might be useful in the following ways:

#### **5.2.4.3 Procurement function operation**

The total responsibility has been given to the procurement function to follow the process used by the Malawi Government (Ref. Fig 2) since the roles of all stakeholders are properly separated. Any deviation from the stipulated norm has been assigned a reprimand and penalty. This may also help the procurement professionals become independent when discharging their duties while being accountable to taxpayers. It may also be used as a tool for enhancing PPPs in the city councils. The systematic way of doing PPPs has the objective of achieving regulatory goals by doing procurements in a transparent manner. Largely, all the interested stakeholders with the councils have been aligned to the roles they have on the procurement process. This will enable the function to be owned by all the people. At the same time, it will potentially enhance professionalism in the public procurement function.

### **5.3 Research methodology and validity of the findings**

The framework constructed from the multiple case studies met the following four criteria which demonstrated that the theory was applicable to the problem (Strauss & Corbin, 1996). The compliance framework on alignment of procurement function, and PPPs substantially met the criteria of fit, understanding, generality and control.

Fit refers to the framework being “faithful to everyday reality of the substantive area of study, and carefully enhanced from diverse data (Strauss & Corbin, 1996). The framework on public procurement compliance was grounded in data from procurement professionals, accountants, chairpersons of the IPCs, and alike. These people were directly involved in decision-making about award of contracts in the selected councils. The data was collected using interviews and observations. After each interview, notes were recorded. The respondents who were interviewed for the second time were given the opportunity to review the data for verification purposes. They then verified that the axial categories and core categories fitted well with their own experiences. The procurement professionals were also able to relate these findings to their real work experiences.

**Understanding:** This is the art of the framework being comprehensive or able to make sense to the participants and professionals involved in this study. The procurement professionals and other participants were also asked if the developed framework was easy to understand. They agreed that the factors included in the framework were generally a true reflection of what they observed daily. Other respondents also recalled the many situations in which either the procurement processes were deliberately by-passed. These were some of the situations the respondents were able to cite in support of the framework as the process of validation progressed. The PPA was

introduced in 2003 to provide economic, social and regulatory support to both demand and supply side in the public sector. Those working in the public procurement sections in the councils do so amidst challenges. For instance, they lack support from line departments and head of entities; there is lack of understanding on the principles of public procurements and poor alignment of the function. The narratives from the respondents showed many similarities. This study thus conformed to the criteria of understanding because those respondents who read the framework were in a position to identify themselves with it.

**Generality:** This is a situation when the story is abstract and include sufficient variations to make it applicable to a variety of contexts related to the phenomenon (Strauss, A & Corbin, J. 1996). This situation happens when data used, on which the framework is based, are comprehensive and interpretations are conceptual and broad as suggested. The data collected on alignment of procurement function and compliance with the PPPs were comprehensive enough to add meaning to the PPPs. The respondents and procurement professionals interviewed who also read these findings were able to make connections.

**Control:** At the end the whole process, the framework should provide control in connection with the action towards the phenomenon, because the data are systematically protracted from the data related to that phenomenon. The concepts from this study were then systematically derived from actual data regarding alignment of procurement function and compliance levels. It was encouraging to hear from the respondents that the findings were in line with what they experienced at the councils. The findings also matched well with the previous research findings on implementation of public procurement (Bovis, 2005; Sarah, 2011; Obanda, 2010 and Sollish & Semanik, 1999). The four criteria for assessing the applicability of this study have been addressed in this section. The axial categories of the procurement functionality, structure of procurement function, public procurement structure, training of procurement professional, added value, organisational structure, the culture of leadership, ICT infrastructure and maverick buying were delivered from the data, and accurately described the phenomenon of how poor alignment of the procurement function impacted on compliance.

#### **5.4 The evaluative criteria of the data analysis using GT**

The GT is an integrated systematic process of data analysis that results into the development of another theory (framework). Since the readers were not present at the time of doing this process, they needed a guideline in order to decide about the quality of the emerging theory. Guided by (Strauss & Corbin, 1996) the final step to help the readers judge sufficiency of this study, the following were discussed:

##### **5.4.1 Selection of the sample**

The sample comprised of three councils and three respondents from each council thus, the Procurement Officer who was also the secretary for the IPC, Finance Officer who was a mandatory member of the IPC, and Chairperson of the IPC. At one of the councils, we selected four respondents because the secretary, by virtue of that council's arrangement, was not supposed to come from the procurement unit (PU) but DoA. This meant that a fourth person had to be incorporated from the PU in order to make the sample complete. The sample was also selected

based on the fact that these people were the decision-makers on matters relating to procurements. This way of selecting respondents removed the chances of biasness.

The process of interviewing the people created the data, which could be broken down into discrete parts and got examined for their similarities and differences concerning alignment compliance issues. It is from these data that arose axial categories of procurement functionality, structure of procurement function, public procurement structure, training of procurement professional, benefits, and organisational structure, the culture of leadership, ICT infrastructure and maverick buying which supported the main category. The categories cited in two above were interwoven. They then relied on each other when it came to the effects of compliance. Normally, when the procurement professional first joins the council, they were excited about the opportunity on how they will contribute to councils. They did so since they were professionals and were ready to prove their abilities. They however soon stumbled into the many challenges of working in the city councils. They then discovered that the procurement function is not properly aligned and that they work as orphans.

The researcher collected data by himself and generally dipped into it from the start of the first collection to the end. In this study, the initial process of codes identified the themes regarding challenges leading to non-compliance. The more the procurement function was poorly aligned, the less qualified the procurement professionals were, the high the no-compliance levels were recorded. As far as the study was concerned, the desire to understand what weakens compliance levels drove the sampling process. After the sampling was completed, the narratives were created to verify the findings.

This study began as an exploration of experiences of those involved in public procurements about the transition of the function, which had an effect on the councils' level of compliance. During the open coding, the researcher looked for meanings of these discrete parts while coding the transcript. As the analysis continued in the axial phase, relationships among the categories were identified. At this stage, it was difficult to completely weed any personal experience from the process. Findings were to be progressively verified against personal observations during coding phases. In refining the theory, the data was still being reviewed to make sure that it captured the essence of the phenomenon. When congruencies were found, the analyses and the theories were automatically validated.

The categories of axials primarily emerged because the interviews were designed in the way that the first questions asked made the respondents express themselves freely. For example, the procurement specialists talked about their role and reasons for procurement. Their responses focused much on the achievement of value in all their activities while following the PPRs. In this regard, added value became an axial category. However, it was difficult to connect this concept to the core category of compliance. Therefore, in order to understand the concept of added value, a detailed exploration of the literature was done. The literature revealed that the concept of added value was complex. It required quite a lot of factors to be fulfilled in order for the achievement of added value to be felt. While it might be true that the main driver for a procurer was value addition, it was not easy to achieve the anticipated value given the challenges they encountered in

the process. However, this remained the utmost driver for most of the procurement professionals for staying on the job. And, right from the first data collected, it looked difficult as to whether the core concepts would be identified or get described. However, as data were collected, compared, and analysed, the categories that emerged started to conceptualise. The combination of characteristics and strategies already described in chapter four were a symbol for this. In summary, this evaluative criterion helped provide the readers with valuable information for them to follow the logic of the coding processes and evaluate the results presented in the preceding chapters.

## **5.5 Recommendations**

Both theoretical and practical contributions were derived from the analytical and empirical dimensions of this study. Based on these findings, the following have been recommended:

### **5.5.1 Governance issues**

- Concerted efforts should be made to educate politicians, government officials and the public on virtues and objectives of public procurement.
- Citizens should be empowered to demand accountability of their resources. They should refrain from being docile and fear to demand their rights. This will increase citizens' participation in governance issues.
- The civil service system of recruitment, pay and promotions needs to reform; align procurement officers with other functions and ensure their protection from internal and external influences and threats.

### **5.5.2 Delineation of duties (Task separation)**

- Given the powerful nature of task separation in enhancing transparency and accountability in selection of suppliers, it should be legislated for use as a tool on award of contract.

### **5.5.3 Support to procurement Function to enhance compliance level**

- Top management should deliberately put more efforts to provide appropriate skills, capacity and incentives to improve their skills in supplier selection and management.
- Procurement officers and IPC members should further be trained on matters of ethics. This will help them understand specifications, selection of the right bidding documents, principles of bid evaluation, and records keeping.
- The ODPP should endeavour to include professional bodies such as MIPs and CIPS on routine compliance monitoring exercises. This may help them enrich the auditing process.

#### **5.5.4 Knowledge about procurement function**

- The procurement officers should be elevated to Director of Procurement. This will bridge the gaps available in the current structure and enhance their authority.
- Independence of procurement officers should be enhanced. These people should not be attached to other departments nor should they be political pawns.
- The procurement function should clearly communicate its processes and values to its stakeholders to increase understanding and compliance.
- While bid mechanisms have been provided for by the (PPA, 2003: Section 26), a judicial body with powers to impose corrective measures against lawbreakers should be put in place.
- It is essential that each level of procurement management has well defined authorities and responsibilities delineated throughout the structure from issuance of policies, regulations and standards of performance to the supervision and management of work force.

#### **5.6 Study limitations**

While the emerging theory was because of a systematic process of interviews from the selected samples, this research had limitations.

Firstly, the sample interviewed, from which the theoretical categories were derived, was small. The interviews were conducted in three city councils and considered only three key members of the IPCs. Other members of the councils such as requisitioners could give sometimes-contradicting opinions. While the requirements of theoretical situation seemed to have been met, a different group of members of the IPCs who did not participate in this study could have potentially given different results altogether.

Secondly, the sample strategy only covered the city councils. The municipal, town and district councils were left out. There was an assumption that all the councils were faced with similar problems when it came to issues of aligning strategic procurement and compliance. However, it may also be argued that municipals, town and district councils- because they are small in nature- operate in different environments. This then may have limited the effect of the subject matter in this study.

To address some of these limitations, the emerging theory was presented and discussed at several meetings with members of the city councils for a year. The feedback from those meetings mitigated some of the limitations. Moreover, interviewing the requisition departments and members of the municipals and district councils would possibly be the best thing to do to collect divergent data for comparative reasons. However, given the limited time and resources, this was not done.

##### **5.6.1 Areas for further research**

The case study provided a framework for future research in many areas. The study on alignment of procurement function and compliance was conducted only in the city councils. There is thus

need for a longitudinal research that should include a more diverse population in the entire LG and CG. This would enhance the understanding of the phenomenon of alignment and compliance issues fairly well.

Research on procurement entities in the CG would also have provided rich data on the performance of procurement function and its effect on compliance, and that would beef up these findings. While these findings have revealed that alignment of procurement function will ensure compliance, and VFM; nevertheless there is a strong correlation between a systematic procurement supply chain and operational decisions made by IPCs. Even then, contract administration in public procurement has not been fully examined by this study, and perhaps this could be another interesting area worthy examining.

### **5.6.2 Summary**

The willingness of the respondents to share their experiences held on the reality of the nature of procurement function, and how it affected compliance levels in the city councils. The case study was used for data collection while GT was used for data analysis. GT led to the discovery of axial categories of the procurement functions, its structure and training needs, leadership culture, ICT infrastructure and maverick buying. The procurement function was first discovered during axial coding, and the categories were supported by the available literature. The narrative approach by the respondents had all the cardinals pointing to the fact that the procurement function is the basis for the enhancement of compliance levels. In addition, the GT of 'added value' revealed more about compliance levels with the PPRs in the councils. It also attempted to strike a balance between regulatory and economic goals.

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9 October 2012

Dear Sir

### AN INTRODUCTORY LETTER FOR MR. DOKISO NYASULU

Mr. Dokiso Nyasulu is a student on a PhD Programme, which is run by MIM in collaboration with the University of Bolton in the United Kingdom. He would like to collect data for his research study entitled "*Alignment of Procurement Function and Compliance levels with Public Procurement Procedures in Local Government*". Any assistance you can give him while he is collecting data and information through interviews and questionnaire will be greatly appreciated. You could also help by giving him any documents relevant to the study. I assure you that any information given to him will be treated in the strictest confidence.

We thank you in advance for your assistance.

Yours faithfully,

Ida K. Mbendera (PhD)  
CMDC – LONG TERM PROGRAMME  
for: EXECUTIVE DIRECTOR

hgm/IKM



12/Nov/2012

Sponsor License Number: XYDHFU3U5

To Whom It May Concern

University  
of Bolton

CURRENT ENROLMENT INFORMATION PROVIDED BY STUDENT SERVICES

NAME OF STUDENT: Dokiso Changayizga Nyasulu

STUDENT NUMBER: 1012616 D.O.B. 16/Sep/1967

COURSE: PHD BY RESEARCH FULL TIME

MODE OF STUDY: Full-time

LENGTH OF THIS COURSE: 4 years

YEAR OF STUDY: Two

IN THE ACADEMIC YEAR: 2012/13

This is to confirm the above details for this student who is currently enrolled at the University.

The student's Home and Term Time Addresses are:-

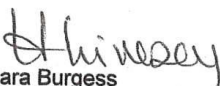
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(Please do not accept any altered version or photocopy of this document which is printed on a coloured letterhead).

  
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## APPENDIX 2

### Proposed research questions

#### Proposed Research Questions to Guide the Respondent (Participant)

- 1) As a public institution, Government Contracting Unit (GCU) at one time governed you in execution of your procurement before the enactment of the Public Procurement Act of 2003. Why did the Government decide to replace the GCU where Central Tender Boards used to make procurement decisions for all Public entities with the ODPP?
- 2) About compliance and public procurement.
  - a. How do departments view procurement compliance?
    - i. Is it a bureaucratic exercise or a tool to fight corruption?
    - ii. Do you have anything to say about compliance?
  - b. How does procurement operate in your organization?
    - i. Purchasing structure-issues of IPC operations in relation to procurement operations.
    - ii. Number of employees in procurement V/S the spent institutional budget.
    - iii. Procurement budget relative to procurement training.
- 3) Tell us the factors that support procurement compliance.
  - i. What factors hinder compliance regulations at your council?
  - ii. How does your council view the role of procurement audits?
- 4) What are the indicators for compliance and audit processes?
- 5) Why is it necessary to comply with all the provisions of the PPA (2003)?
- 6) Has the Public Procurement Act helped your institution comply with public procurement procedures? Explain.
- 7) To what extent do you think your institution complies with all provisions of the Public Procurement Act?
- 8) One of the provisions of the Public Procurement Act is (sections 10 & 11) is your Procurement Unit managed by procurement professionals.
  - i) What is the role of the procurement function in expenditure of public funds?
  - ii) How is your procurement function aligned with other functions?
  - iii) Does it add any meaningful value at its current structural level?
  - iv) How can strategic procurement function assist in prevention of fraud and corruption in your council?
- v) To what extent would you say following procurement procedures help check corruption at your council?
- 9) Some people think that better qualifications in procurement and supply chain management are vital for enhancing compliance with the PPPs. What do you think?
- 10) What advice would you have for councils that do not comply with Public Procurement Procedures?
- 11) What advice would you give them on how they should comply with the PPPs?
- 12) Which things would tell them to help them better?
- 13) Is there anything that makes it worse or better?
- 14) Do you think there is anything good that can come out of compliance with the PPPs?
- 15) Sometimes people find something good in failing to comply with the PPPs: Why do they do so in your council?
- 16) What procurements are mostly procured without following set regulations in your council?
- 17) What are the reasons for flouting the PPRs as set by the PPA 2003

How would ICT help your council comply with procurement regulations?